



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

APR 10 2013

President Richard Gurnon
Massachusetts Maritime Academy
101 Academy Drive
Buzzards Bay, Massachusetts 02532

Re: Complaint No. 01-13-2008

Dear President Gurnon:

The U.S. Department of Education's Office for Civil Rights (OCR) is closing the investigative phase of the above-referenced complaint filed against the Massachusetts Maritime Academy (Academy). The Complainant alleged the Academy failed to appropriately respond to his daughter's report of a sexual assault by an Academy cadet in the fall of 2012. Based on the information presented, OCR proceeded to investigate whether the Academy failed to respond to the alleged victim's report of sexual assault in a prompt and equitable manner, in violation of 34 C.F.R. Section 106.8(b) and 106.31. As explained below, prior to OCR completing its investigation and drawing any conclusions regarding this matter, the Academy expressed an interest in resolving the complaint and signed a resolution agreement (Agreement). A copy of the signed Agreement is enclosed.

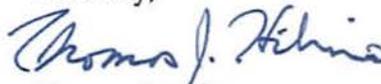
OCR accepted this complaint for investigation because the allegations are within OCR's jurisdiction under Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which prohibit discrimination on the basis of sex by recipients of Federal financial assistance from the U.S. Department of Education. The Academy disagreed that OCR has jurisdiction pursuant to 34 C.F.R. 106.13, but agreed to resolve this matter prior to the conclusion of the investigation and a finding on this matter in order to comply with the spirit of Title IX and its implementing regulations. Entering this agreement is not, however, an admission by the Academy that it is required by law to comply with Title IX or its implementing regulations.

During the investigation, OCR reviewed documentation from the Academy regarding its Title IX Coordinator, published sexual harassment grievance procedure, and responses to complaints of sexual harassment and assault, including its response to the Complainant's grievance. Before OCR made any findings based on the information gathered, the Academy expressed an interest in resolving the complaint. The Academy agreed to take actions set forth in the enclosed Agreement.

The Agreement is aligned with the complaint allegation and the information OCR had obtained when the Academy proposed to resolve the complaint. Moreover, the Agreement is consistent with the requirements of Title IX. With regard to Section II of the Agreement, Student-specific Actions, OCR understands that the Academy will make every reasonable effort to meet with the Complainant and his daughter. However, if the Complainant and his daughter no longer wish to participate in a meeting, then that decision should be documented by the Academy and provided to OCR pursuant to Section III(E) of the reporting provisions. Accordingly, we are closing the investigative phase of the complaint as of the date of this letter and, consistent with our usual practice, will monitor the Academy's implementation of the Agreement. The matters addressed in this letter are not intended and should not be construed to cover any other issues regarding the Academy's compliance with Title IX or any other laws enforced by OCR that may exist but are not discussed here.

If you have any questions about the information contained in this letter, please contact Civil Rights Investigator Molly O'Halloran at (617) 289-0058 or Molly.O'Halloran@ed.gov; Civil Rights Attorney Phil Catanzano at (617) 289-0038 or Philip.Catanzano@ed.gov; or me at (617) 289-0111.

Sincerely,



Thomas J. Hibino
Regional Director

Enclosure

Cc: Elizabeth Sanghavi, Esq.

**MASSACHUSETTS MARITIME ACADEMY
OCR COMPLAINT NO. 01-13-2008
VOLUNTARY RESOLUTION AGREEMENT**

Massachusetts Maritime Academy agrees voluntarily to take the steps set out below to resolve the above-referenced complaint. The complaint was filed with the U.S. Department of Education's Office for Civil Rights (OCR) and OCR asserted jurisdiction under Title IX of the Education Amendments of 1972 (Title IX). The Academy disagrees that OCR has jurisdiction pursuant to 34 C.F.R. 106.13, but agreed to resolve this matter prior to the conclusion of the investigation and a finding on this matter in order to comply with the spirit of Title IX and its implementing regulations. Entering this agreement is not, however, an admission by the Academy that it is required by law to comply with Title IX or its implementing regulations.

I. ACADEMY-WIDE ACTIONS

- A. The Academy will better publicize the roles and responsibilities of its Title IX Coordinator (Coordinator). The Academy will widely publish the name and contact information of the Title IX Coordinator in print and on-line, as well as stating the names of any delegates charged with similar responsibilities. The Coordinator (and her delegates) will be responsible for the following:
1. Communicating to students, parents, and staff the Academy's actions with regard to sexual harassment and providing information to individuals regarding their rights pertaining to non-discriminatory treatment based on sex, the Academy's grievance processes, and the availability of interim measures during an investigation of a grievance;
 2. Responding to any and all complaints/reports or incidents of sex discrimination following the approved grievance procedure;
 3. Tracking complaints/reports for trends and repeat perpetrators; and
 4. Conducting periodic assessments (at least annually) of campus climate with regard to sexual harassment and violence. The Coordinator will seek input from students, staff, as well as a wide variety of other sources, through surveys, interviews, and focus groups. The Coordinator will also assess the resources on campus available to victims and will incorporate feedback provided by those who have gone through the grievance process. The Academy will consider such assessments in identifying future actions to ensure that it maintains an environment that is safe and supportive to all students.
- B. The Academy will revise and submit for OCR's review grievance procedures for complaints of sex-based discrimination. Once approved by OCR, the

Academy will provide broad notice to the community. The procedures will include, at a minimum, the following:

1. If informal process(es) are available, the option for complainants to bypass an informal process for a formal process at any point, per the complainants' discretion;
2. No complainant will be required to have direct interaction with an alleged perpetrator in any informal resolution or mediation involving a complaint of sexual assault;
3. Designated timeframes for major stages of the process;
4. Adequate, prompt and impartial investigations of allegations of sexual harassment and violence including:
 - a. Not unnecessarily delaying the Academy's investigation of possible sexual violence until related criminal processes are concluded;
 - b. The opportunity for both parties to present witnesses and other evidence;
 - c. Use of the preponderance of evidence standard in determining whether sexual harassment or violence occurred;
 - d. Availability of interim steps to protect the parties during the Academy's investigation of possible sexual harassment or violence. Such interim steps should not disproportionately impact the complainant(s).
5. Assurances that the Academy will take steps to stop any sexual harassment or violence if found, prevent its recurrence and remedy its effects on those impacted, where appropriate;
6. Assurances that retaliation is prohibited and that retaliation will be handled promptly and equitably if it occurs;
7. Notice in writing to the relevant parties regarding the outcome of the process including whether sexual harassment or violence was found and a description of the Academy's response;
8. Equitable rights to both parties to appeal, if applicable;

9. Consistent with its current policies, adequate record-keeping of complaints filed, including a description of the claim or copy of the complaint; copies of all witnesses statements; any documentary evidence or written statements provided; a copy of final disposition/outcome; and documentation that notice of the outcome was provided to the parties.
- C. The Academy will provide training to the Title IX Coordinator and those designated to conduct investigations in response to reports or complaints of sexual harassment or violence on: the Academy's rules/policies regarding sexual harassment/violence; relevant resources available on and off campus; the Academy's grievance procedure, including accepting, processing and investigating complaints of sexual harassment or violence; interacting with victims of sexual harassment or violence; gathering relevant evidence and assessing it in the Title IX context; the importance of confidentiality, fair process, impartiality, and applicable legal standards; and safety considerations when determining interim measures and disciplinary sanctions.
 - D. The Academy will provide all staff with training on: interacting with victims of sexual harassment or violence; the Academy's policies regarding sexual harassment or violence; resources on campus; the Academy's grievance procedures; reporting requirements; and other topics the Academy deems relevant to address sexual harassment and violence.
 - E. The Academy will conduct training for freshmen students on: the Academy's policies regarding sexual harassment or violence; resources on campus; the Academy's grievance procedures; reporting requirements; and other topics the Academy deems relevant to address sexual harassment and violence. The Academy will also hold trainings for sophomore students on bystander intervention and will re-affirm the topics presented to freshman students.
 - F. The Academy will develop and provide to OCR for its review and approval, an intake checklist for staff and the Coordinator to use when a student reports an incident of sexual harassment or violence.
 - G. The Academy will develop a pamphlet and webpage explaining the Academy's grievance procedure, remedies available to victims, and resources available on and off campus for victims. The pamphlet and hyperlink will be provided to any student reporting sexual harassment or violence and will be distributed to the Academy community at the beginning of each school year.

- H. In an effort to raise awareness on campus of issues of sexual violence, the Academy will provide ongoing educational forums/events on these topics such as holding a “Take Back the Night” awareness event each year.

II. STUDENT-SPECIFIC ACTION

The Academy will meet with the Complainant and his daughter to discuss the fall event, the Academy’s response, and the impact it has had on the Complainant’s daughter.

III. REPORTING

- A. By August 31, 2013, the Academy will provide OCR with documentation that it has better publicized the role of Title IX Coordinator and published the name online and in print; submit for OCR’s review intake checklist, pamphlet and hyperlink to website.
- B. The Academy will submit for OCR’s review the revised Title IX grievance procedures within two days of approval by the Massachusetts Board of Higher Education, if such approval is necessary. Otherwise, the Academy will submit for OCR’s review the revised Title IX grievance procedures by August 31, 2013.
- C. Two weeks prior to completing the training in Provision C, D, and E of the Academy-Wide actions, the Academy will provide OCR with the name and qualifications of the trainer, and copies of the training materials.
- D. By December 31, 2013, the Academy will provide OCR with documentation that it is implementing its grievance procedure, the Title IX coordinators are fulfilling their responsibilities, and the Academy is making efforts to increase awareness around these issues on campus, including:
1. documentation of reports and complaints and the Academy’s response to complaints of sexual harassment and violence;
 2. documentation of efforts to track complaints/reports of trends and repeat perpetrators;
 3. documentation of efforts to assess the schools’ climate with respect to the sexual harassment; and
 4. documentation of orientation programs and other ongoing annual events related to sexual harassment and violence.

- E. By June 30, 2013, the Academy will provide documentation that it has made all reasonable efforts to complete the Student-specific action outlined in Section II.

The Academy understands that OCR will not close the monitoring of this agreement until OCR determines that the Academy has fulfilled its terms and is in compliance with the regulations implementing Title IX which were at issue in this case.

The Academy understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the Academy understands that during the monitoring of this agreement, if necessary, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this agreement and is in compliance with 34 C.F.R. Sections 106.8(a) and (b), and 106.31(a) and (b), which were at issue in this complaint.

The Academy understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. Sections 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Academy written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

For the Academy:

A handwritten signature in black ink, appearing to read "Richard G. Gurnon". The signature is written in a cursive style with a large initial "R".

Richard G. Gurnon, President

10 April 2013