



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I
5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-3921

February 20, 2020

Michael S. Ross
President
Wesleyan University
c/o XXXXXXXXXX and David S. Winakor (dwinakor@wesleyan.edu)

Re: Complaint No. 01-16-2026
Wesleyan University

Dear President Ross:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the complaint we received on XXXXXXXXX, against Wesleyan University (University). The Complainant alleged that the University discriminated against him based on sex by failing to respond equitably to sexual harassment complaints filed against him by a University student (Student) and filed by him against the Student (Allegation 1). The Complainant also alleged that the University discriminated against him based on disability in its response to the complaints (Allegation 2).

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, 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. OCR also enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving federal financial assistance from the Department. Because the University receives federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title IX and Section 504.

In reaching a determination, OCR reviewed documents provided by the Complainant and the University, and OCR interviewed the Complainant. After carefully considering all of the information obtained during the investigation, OCR found that the University denied the Complainant an equitable response to a complaint of sex discrimination in violation of Title IX, and separately found insufficient evidence to support the contention that the University discriminated against the Complainant in violation of Section 504. OCR's findings and conclusions are discussed below.

Factual Findings

Prior to college, the Complainant and the Student were acquainted through participation in XXXXXXXX. The Complainant stated in his complaint to OCR that he "XXXXXXX" on the

Student, who was friendly with the Complainant, but the Student had XXXXXXXXXXXXXXXXXXXX she knew the Complainant in high school.¹

During the XXXXXX school year, the Student attended the University XXXXXXXXXXXXXXXXXXXX. In XXXXXXX, the Complainant arranged for a XXXXXXXXXXX to occur in one of the University XXXXXXX in connection with the Student's XXXXX. The Student responded to the XXXXXXXXXXX and accompanying XXX by informing the Complainant that they could no longer be friends. According to the Complainant, this triggered "XXXXXXX." The Complainant wrote XXXXXXXXXXXXXXX about the Student, including XXXXXXXXXXXXXXXXXXXX. In response to these communications, the Student contacted her class dean at the University, in XXXXXXX, to inquire about a restraining order.²

The University admitted the Complainant XXXXXXXXXXXXXXX for the XXXXXXX school year. Prior to his admission, the Complainant reached out to the Student XXXXXXXXXXXXXXX, and the Student went to her class dean to express concern. The Vice President for Student Affairs (Vice President) informed the Complainant that he and the Student would be required to sign identical documents entitled "No Contact Agreement" (NCA).

The Complainant and Student each separately signed an NCA dated XXXXXXX. The NCA stated that the Complainant and the Student would "not have any further contact with each other, directly or indirectly. This includes any type of verbal, nonverbal, written or electronic communication (including Facebook and other social media), or contact through other people." The NCA instructed the parties to avoid being in each other's presence by leaving a location if they saw each other, and stated that if either party believed that the NCA "has been broken they should contact public safety." Finally, the NCA advised that failure to comply could result in disciplinary action, including separation from campus or suspension from the University.

The Complainant alleges that during the XXXXXX school year, he and the Student "routinely violated the explicit terms of the contract," and that the Dean of Students (Dean) "advised [them] this was acceptable, as long as [they] had a good-faith and similar understanding of what actually crossed the line." Similarly, the Student wrote that "there was a feeling of good faith towards the [NCA] on both of our parts," and acknowledged that neither felt the need to contact the administration even though they were frequently in proximity to one another, given the small size of the campus and student body.

In XXXXXX, the Associate Director of Residential Life convened a meeting with the Complainant and two students (Peers 1 and 2), XXXXXXXXXXXXXXXXXXXXXXXXXXXX whom the Complainant referred to as his best friends. According to the Complainant, the Complainant was informed at this meeting that a friend of the Student (Peer 3) had incorrectly informed Peers 1 and 2 that the Complainant was the subject of a restraining order. According to the University, the meeting was requested by Peers 1 and 2 for the purpose of discussing their relationship with the

¹ In the statement that Complainant submitted in connection with the Title IX process at issue, he wrote that he "XXXXXXXXXXXX" for the Student.

² Public safety accompanied the Student on a Friday evening to the Middletown Police to inquire about a restraining order. According to the public safety report, the police advised that the Student would have to seek such an order when the courts opened on Monday morning.

Complainant, because Peers 1 and 2 wanted to encourage the Complainant to seek out other social interactions.

Following the meeting, the Complainant went to speak with the Dean about his concern that the Student was spreading false rumors about him. The Complainant said he also shared with the Dean multiple instances throughout the year when the Student had made him uncomfortable by staring at him and/or not leaving the area, as required by the NCA. Two days later, the Dean informed him that he had followed up with the Student, who denied talking about the Complainant to other people.

The Student studied abroad the following fall semester, in XXX. In XXXXXXXX, the Complainant was on a University-sponsored XXXX. During the XXXXXX, the Complainant had an interaction with another student (Peer 4), which he alleges started out friendly but turned cold. The interaction caused the Complainant to think that someone had said something negative to Peer 4 about him. The Complainant also told OCR that upon the Student's return to campus in XXXXXXXX, she stared at him, and did not leave his proximity despite the NCA on multiple occasions in XXXXXXXXXXXX.

On XXXXXXXX, the Student emailed her class dean, stating "I don't want to make a complaint necessarily," but then she shared her concerns about frequently seeing the Complainant around campus. She also described an incident where she allegedly found him standing outside her classroom by the bathrooms for about ten minutes (XXXXXXX incident). The Student also reported receiving calls on XXXXXXXX, from someone with a blocked caller ID, which she suspected was the Complainant.

According to representations by the University, on XXXXXXXX, the Student contacted her class dean and public safety about violations of the NCA. She forwarded screen shots to her class dean of her XXXXXXXXXXXXXXXX, which showed XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX. The Student suspected that at least some of these XXXXXXXXXXXXXXXX by the Complainant. The Student also expressed concern about other behavior engaged in by the Complainant. She mentioned in her email that the Complainant had tried to XXXXXXXXXXXX the previous summer. Later that same day, she emailed her class dean again requesting to meet as soon as possible after a run-in with the Complainant at XXXXXX during which she alleged that "he just stared at [her]" as she entered and sat down (XXXXX incident).

According to the Complainant, on XXXXXXXX, the Associate Dean of Students (Associate Dean) met with the Complainant about the XXXXXXXX. The Complainant said that during this meeting, he informed the Associate Dean that the Student had spread rumors about him XXXXXXXX, and had also provided specific examples of her staring at him and making him uncomfortable.

The Student met with her class dean on XXXXXXXX. During that meeting, she orally conveyed an alleged separate incident that had occurred in the XXXXXXXX (XXXXXX incident). Specifically, and as described in the Student's statement prepared for the hearing, while she was sitting, the Complainant "walked by very slowly while looking at [her]." When she looked behind, she saw that the Complainant "was still standing there staring at [her]." According to

representations by the University, the Student made a request through her class dean to move forward with the University’s formal complaint process.

Separately, the University granted a XXXXXXXXXXXX submitted by the Complainant on XXXXXX, and issued a letter confirming that he had been withdrawn from his courses for the XXXXXXXXXXXX and could initiate the process for returning to the University for the XXXXXXXXXXXX, or XXXXXXXX contingent upon the successful completion of his XXXXXXXXXXXX, consistent with the terms of his XXXXXXXXXXXX. Thereafter, the University and the Complainant communicated about his XXXXXXXX, and whether to proceed with scheduling a hearing under the University’s formal complaint process regarding the charges filed against the Complainant; the University wanted to defer a hearing during the Complainant’s XXXXXX, but the Complainant asserted that he wanted to proceed with a hearing. On XXXXXXXX, the dean sent the Complainant an email to follow up on a conversation from the previous week. The email states that it contained, as an attachment, “information related to the contact reported to [the University by the Student],” and refers to attempts the Complainant made to communicate with the Student in XXXXXX, again in XXXXXXXX online, and “in person in XXXX on XXXXXX.”

On XXXXXXXX, the University sent the Complainant a “charge letter” under its grievance procedures, specifying the two sections of the University’s code of non-academic conduct at issue. The charge letter articulated that the charges against the Complaint were regarding “actions on or around XXXXXXXX”: (1) failure to comply (with university personnel requests), and (2) sexual misconduct and assault (XXXXXX). Attached to the charge letter were copies of XXXXXXXXXXXX the Student had received on or about XXXXXXXXXXXX, as well as the Student’s email exchanges with her class dean about a “Fishy XXXXXXXXXXXX.”

In an email on XXXXXXXX, the Dean informed the Complainant that he could attend his hearing in person. Then on XXXXXXXX, the Dean emailed the Complainant that the hearing would be held via Skype, because he knew that the Complainant’s XXXXXXXX prevented him from being on campus. On XXXXXX, the Vice President emailed the Complainant’s father, stating that the Dean denied the Complainant’s request to appear in person, based on a recommendation from XXXXXXXXXXXXXXXXXXXX; the Vice President directed the Complainant to request an accommodation through the Disability Resources Office, if desired.³ The Complainant submitted a notification form to the Associate Dean for Academic Resources, in which he listed his XXXXXXXX and requested to be allowed to be present in person.

On XXXXXXXX, the University sent a notice to Complainant that confirmed he would be permitted to attend the hearing; provided information about the date, time and location of the hearing; and attached additional emails that were submitted by the Complainant for inclusion in the electronic case file. Included in the emails was an exchange in XXXXXXXX between the Student and her class dean about uncomfortable contacts with the Complainant in XXXXXX. Two days later, the University sent Complainant another notice advising him of a “XXXXXXXXX from XXXX” that Complainant had been added to the electronic case file.

³ The Student previously identified himself as a student with a disability when he submitted a housing accommodation request on XXXXXXXX. The University did not take action with respect to this request because the Complainant went on XXXXXXXXXXXX prior to the housing selection for the following school year.

The Complainant submitted a hearing statement pursuant to the University’s grievance procedures, dated XXXXXX, which addressed the alleged XXXXXXXXXXXX and the XXXX incident. The Complainant then submitted a statement dated XXXXXX, addressing the alleged XXXXX incident on XXXXXX, explaining that he had been waiting to use the single-user bathroom, which was occupied. He said he learned about the Student’s complaint regarding the XXXXX incident only from emails from the Dean.

The University held a hearing on XXXXXX. The Complainant appeared in person, and the Student appeared via Skype. In her opening statement, the Student referred to menacing eye contact in XXXX, the slow walking in XXXXX, and the XXXXXXXX. The Complainant’s opening statement addressed the XXXXX, XXXXXX, and XXXX incidents. Both in the Complainant’s written statement submitted before the hearing, and during the hearing, the Complainant admitted to XXXXXXXXXXXXXXXXXXXX in violation of the NCA, but contended that XXXXXXXXXXXXXXXXXXXX.⁴ In his closing statement at the hearing, the Complainant explained that he XXXXXXXXXXXX because he did not know what to do; he knew he could not contact her and should not contact her. The panel’s notes from the hearing mention the Student reporting “XXXXXXXXXXXXXXXX,” and describe the Complainant as “[speaking] to this as a XXXXX issue not a XXXXX issue.” The notes also indicate that the Complainant described his XXXXXXXXXXXX, and his need to “contact [the Student] because XXXXXXXXXXXXXXXXXXXX.” Following the hearing, the Complainant submitted a brief supplemental statement which did not mention the XXXXX incident.

In a letter dated XXXXX, the University notified the Complainant that the panel found him responsible for failing to comply with the NCA, and for violating the policy prohibiting XXXXX by contacting the Student “XXXXXXXXXXXXXXXX and in their interaction in the XXXXXXXXXXXX.” The panel issued a XXXXXXXXXXXXXXXXXXXX.⁵

On XXXXXX, the Complainant emailed a letter to the Vice President to file complaints against the Student, “her friends, and other unnamed parties” for “retaliation, XXXXX, and failure to comply,” as well as against the administration for “failing to identify, address, prevent the recurrence of, and remedy the effects of both retaliation and XXXXX” and for “discrimination on the basis of sex.” Specifically, the Complainant alleged violations of the NCA, XXXXX, and/or retaliation with regard to the XXXX incident when Peer 3 allegedly falsely stated to Peers 1 and 2 that the Complainant had been the subject of a restraining order, the XXXXXXXXXXXX when Peer 4 allegedly went from being friendly to cold, and his “personal observations” that a friend of the Student (Peer 5) texted the Student about his location. He also listed nine occasions between XXXXXXXX, and XXXXXXXX, as examples where the Student violated the NCA by being too close to him or staring at him. Lastly, he alleged that the University never investigated the allegations he reported during his XXXXXX meeting with the Associate Dean, informed him of his rights, or otherwise addressed his concerns. The University forwarded the letter to the Deputy Title IX

⁴ In his hearing statement, the Complainant wrote: “During XXXXX... I believed that some sort of reconciliation with [the Student] was necessary to relieve my pain. Since I was not supposed to contact her, I found some sort of relief... by XXXXXX..., XXXXXXXXXXXXXXXXXXXX, and then XXXXXXXXXXXXXXXXXXXX... On XXXXXXXX, I ... repeatedly XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXX. When I stopped, I XXXXXXXXXXXX.”

⁵ The University issued XXXXXXXXXXXXXXXXXXXX to twenty-four students, including the Complainant, over the course of three school years beginning with the XXXXXXXX school year. Two of the students so sanctioned were female; most of the students had no known disability.

Coordinator, who began an investigation in conjunction with a lieutenant from public safety (Lieutenant).

Between XXXXX and XXXXXXXX, the Complainant sent along additional emails in which he repeated similar allegations against the Student, and included new allegations against University officials for violating the Family Educational Rights and Privacy Act and using his disability to undermine his complaint. These additional allegations were folded into the University’s ongoing investigation.⁶

On XXXXXXXX, the Deputy Title IX Coordinator and Lieutenant issued their Discrimination and Sexual Misconduct Policy Complaint Concluding Document (Concluding Document) to the Vice President of Equity and Inclusion/Title IX Officer. The Concluding Document identified the Student, XXXXXXXXXXXXXXXXXXXX as respondents; summarized the allegations; provided an overview of the investigation that referred to interviews and conversations with ten (10) people, including the Student; explained the University’s findings and recommendations; and summarized seven (7) witness interviews. The Concluding Document recommended communicating to the Complainant that the case would not be referred for a hearing because the information gathered through investigation did not support a violation of University policy.

As part of its investigation, the University interviewed Peers 1, 2, 4, and 5. The interviews indicated that the Complainant had misunderstood his interactions with Peers 1, 2, and 4 when he speculated that any awkwardness was a result of their learning about an alleged restraining order. Peer 5, a close friend of the Student, denied speaking to anyone on campus about the Student’s and the Complainant’s interactions, and denied sending the Student texts about the Complainant’s location on campus. The Concluding Document stated: “It would appear that a few of [the Student’s] close friends knew she had an [NCA] with [the Complainant] and his name has inevitably come up on our small campus but it does not appear that [the Student] is behind it or things are being said about [the Complainant] maliciously.” In its narrative response to OCR, the University represented that, based on the information gathered, the investigators determined that interviewing the Student was unwarranted. The University also has asserted that it was concerned that the Complainant’s formal complaint could be seen as retaliatory, and therefore took care to balance taking his complaint seriously while not imposing undue burden on the Student. The Concluding Document makes no reference to the nine incidents between XXXXXX and XXXXXX, where the Complainant alleged that the Student violated the NCA by being too close to him and staring at him.

On XXXXXX, the University issued a Title IX Complaint Concluding Letter (Concluding Letter) to the Complainant. While the Concluding Letter included the same overview of the investigation as in the Concluding Document, including identifying the Student as one of ten people with whom there were interviews and conversations, the Concluding Letter did not include any witness summaries or otherwise summarize the facts found during the investigation, and makes no reference to the nine incidents cited in the Complainant’s complaint. Instead, it stated: “After reading the statements from [the Complainant], gathering information, and interviewing all persons named as a witness; there is no evidence to support a violation of the university’s sexual

⁶ To the extent the Complainant’s additional allegations did not concern areas within OCR’s jurisdiction, they are not discussed further in this letter.

misconduct policy.” The Concluding Letter followed the recommendation of the Concluding Document and advised the Complainant that the case would not be referred for a hearing.

The Complainant sent a letter to the Deputy Title IX Coordinator dated XXXXX, demanding further explanation of the University’s findings, which he did not receive.⁷ The Complainant did, however, return to the University in the XXXX and eventually graduated in XXXX.

Allegation 1 (Equitable Resolution of Title IX Complaint)

Legal Standard

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires that universities adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of alleged Title IX violations. OCR has identified a number of elements to evaluate whether a school’s grievance procedures are prompt are equitable, including whether the school (i) provides notice of the school’s grievance procedures, including how to file a complaint, to students, and employees; (ii) applies the grievance procedures to complaints filed by students or on their behalf alleging sexual misconduct carried out by employees, other students, or third parties (iii) ensures an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; (iv) designates and follows a reasonably prompt time frame for major stages of the complaint process; (v) notifies the parties of the outcome of the complaint; and (vi) provides assurance that the school will take steps to prevent recurrence of sexual misconduct and to remedy its discriminatory effects, as appropriate.

In order to comply with the Title IX regulation, in every investigation conducted under the school’s grievance procedures, the burden is on the school to gather sufficient evidence to reach a fair and impartial determination as to whether sexual misconduct has occurred. A person free of actual or reasonably perceived conflicts of interest and biases for or against any party must lead the investigation on behalf of the school. An equitable investigation of a Title IX complaint requires that a trained investigator analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—including both inculpatory and exculpatory evidence—and take into account the unique circumstances of each case.

To satisfy a recipient’s duties under the Title IX regulation, once a school decides to open an investigation that may lead to disciplinary action against the responding party, it should provide notice to the responding party of the allegations that constitute a potential violation of the school’s sexual misconduct policy, including sufficient details, and with sufficient time, to prepare a response. Each party should receive written notice in advance of any interview or hearing with sufficient time to prepare for meaningful participation. Any rights or opportunities that a school makes available to one party during the investigation should be made available to the other party on equal terms. The reporting and responding parties and appropriate officials

⁷ The Complainant’s attorney later sent a letter to the University in XXXXX, detailing alleged violations of his due process rights and requesting that the University (and the Student) recharacterize his suspension as a XXXXXXXX. In response, University counsel proposed removing the comment “not enrolled” from his XXXXX transcript but refused to expunge his record or recast the suspension as a XXXXXXXX.

must have timely and equal access to any information that will be used during informal and formal disciplinary meetings and hearings. The investigation and/or hearing should result in notice to the parties of the outcome of the complaint.

Analysis

The Complainant alleged that the University “impos[ed] double standards” on him and the Student, and “failed to adequately investigate [his] complaints” as raised in his XXXXX meeting with the Dean, XXXXX meeting with the Associate Dean, and XXXXX formal complaint.

As described by the Complainant and the Student, both parties initially had a good faith understanding of how to respect the NCA during the XXXXXX school year given the frequency with which they crossed paths on the small campus. Both parties raised concerns with University officials at various points, and the University responded informally to those concerns. OCR finds that the University’s informal handling of the informal complaints received prior to XXXXX was equitable.

The University did not initiate a formal investigation against the Complainant until the Student contacted both the University’s public safety, as instructed in the NCA, and lodged a formal complaint through her class dean about specified and recent incidents. When the University sent its charging document to the Complainant, it did not identify specific incidents at issue and instead referred generally to “actions on or about XXXXXXXX” that were alleged to constitute “Failure to comply” and “Sexual misconduct and assault (XXXXX).” Sent along with this notice were copies of the XXXXXXXXXXXX at issue, as well as an email exchange that referenced the XXXX incident. A subsequent notice to the Complainant provided him with copies of emails about the XXXXX incident. As to the XXXXX incident, however, the Complainant received no notice from the University prior to the hearing. Rather, the Student indicated in a written statement that she raised the XXXXX incident orally during her XXXXX meeting with the Dean, and that the Dean “did not include it in the emails in the file.” Thus, while the Student was prepared and addressed the XXXXX incident in her opening remarks, the Complainant told OCR that he did not learn of XXXXX until the hearing. The hearing reveals that in his opening remarks, the Complainant addressed only the XXXXX and XXXX staring incidents, and the XXXXXXXX. Notably, in finding the Complainant responsible, the hearing panel expressly referred only to the XXXXXXXXXXXX and the XXXXX incident. OCR concludes that the University failed to provide equitable notice to the Complainant as to the XXXXX incident in connection with its handling of the Student’s formal complaint.

With respect to the University’s handling of the Complainant’s formal complaint, OCR notes that the Complainant never contacted public safety about any violation of the NCA, and did not lodge a formal complaint until XXXXXX, immediately after he was found responsible in connection with the Student’s formal complaint. At that time, among other allegations, the Complainant sought to have the University address a number of contacts, including some previously handled informally. While OCR understands the University’s concerns about possible retaliation, it nonetheless needed to address all aspects of the Complainant’s formal complaint.

OCR finds the University’s investigation failed to respond equitably, particularly with respect to the Complainant’s allegations about the Student being too close to him and staring at him. The University represented in its submission to OCR that a decision was made not to interview the Student again in connection with the Complainant’s formal complaint. However, whether the University interviewed or had conversations with the Student, as the Concluding Document apparently incorrectly states, or relied upon information collected as part of earlier informal resolution efforts or in connection with the Student’s formal complaint, there was no statement in the Concluding Document that the University obtained any evidence relevant to the Complainant’s allegations concerning the XXX incidents of the Student allegedly being too close to or staring at him. Similarly, the Concluding Letter sent to the Complainant offered no explanation for the University’s determination, stating only in conclusory fashion that “there is no evidence to support a violation of the [U]niversity’s sexual misconduct policy.” Particularly in the circumstances of this case, where the University had provided a full hearing on the Student’s allegations involving the Complainant standing close to her (XXXXXX incident) and staring (XXXX and XXXXX incidents), the University’s failure to address the Complainant’s similar allegations stands in stark contrast. Accordingly, OCR finds the University’s investigation provided an inequitable response in violation of Title IX.

Allegation 2 (Disability discrimination)

Legal Standard

The Section 504 regulations at 34 C.F.R. §§ 104.4 and 104.43 provide that no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a recipient’s programs or activities on the basis of disability. At the post-secondary level, students are responsible for disclosing and providing documentation of their disability and for knowing and following the procedures established by a recipient to request academic adjustments and auxiliary aids and services.

Analysis

The Complainant alleged that the University was biased against him on the basis of his disability. He argues in support of this claim that the University initially denied his request to participate in the hearing in person, then used his disability to discredit his credibility, and subsequently suspended him because of his disability, rather than more effectively addressing a XXXXX issue through XXXXXXXXXXXX. However, OCR did not find sufficient evidence from which OCR could infer that disability-based discrimination occurred. The only relevant adjustment that the Complainant requested prior to the University imposing sanctions was that he be allowed to appear at the hearing in person, which the University ultimately permitted. The code of academic conduct applied to all students, including students with disabilities. In addition, as noted above, OCR’s review of three years of the University’s disciplinary data revealed no concerns with regard to discrimination on the basis of disability; most of the students who received a sanction of a one-year suspension or longer had no known disability, and OCR observed no indicia of disability-

based animus in this case. Therefore, OCR found insufficient evidence that the University discriminated against the Complainant based on disability.⁸

Resolution Agreement

On February 14, 2020, the University agreed to implement the enclosed Resolution Agreement (Agreement), which commits the University to take specific steps to address and resolve the identified areas of noncompliance. Under Section 304 of OCR's *Case Processing Manual*, a complaint will be considered resolved, and a recipient deemed compliant, when a recipient enters into and fulfills the terms of a negotiated Resolution Agreement. Here, the Agreement requires the University to ensure that when resolving complaints of Title IX violations, it provides sufficient written notice of all the allegations at issue, and that its investigation reports accurately reflect actions taken during the investigation and address each factual allegation raised. In addition, the University will expunge from the Complainant's transcript all record of the finding of responsibility as to the XXXXX incident, and will expunge all reference to the discipline imposed as a result of the Student's complaint against him. Finally, the University is to provide to the Complainant an investigation report that addresses each factual allegation he raised.

OCR will monitor the University's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may conduct additional visits and may request additional information, if necessary, to determine whether the University has fulfilled the terms of the Agreement. Once the University has satisfied the commitments under the Agreement, OCR will close the case. As stated in the Agreement entered into by the University on February 14, 2020, if the University fails to implement the Agreement, OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement. Before initiating such proceedings, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Conclusion

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University's compliance with civil rights laws with respect to any issues other than those described in this letter. This letter sets forth OCR's determination in an individual OCR case. It 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 duly authorized OCR officials 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.

The Complainant has a right to appeal OCR's determination with regard to its finding of insufficient evidence as to disability discrimination within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the Complainant appeals OCR's determination, OCR will

⁸ The University informed OCR that it now puts information in its notification letters to inform students of the process for requesting accommodations prior to a formal process, such as a hearing.

forward a copy of the appeal form or written statement to the University. The University has the option to submit to OCR a response to the appeal. The University must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the University.

Please be advised that the University may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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, it 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, you may contact OCR at (617) 289-0111 or OCR.Boston@ed.gov.

Sincerely,

/s/

Ramzi Ajami
Acting Regional Director

Cc: Philip Catanzano, Esq., Holland & Knight LLP