



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

Mitchel Soriano
Executive Campus Director
Branford Hall Career Institute
189 Brookdale Drive
Springfield, MA 01104

Re: Complaint No. 01-16-2046
Branford Hall Career Institute

Dear Mr. Soriano:

This letter is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR) is closing its investigation of the above-referenced case that was filed against the Branford Hall Career Institute (Institute). The Complainant alleged that the Institute discriminated against her on the basis of sex.¹ Specifically, the Complainant alleged that in November 2014, the Institute encouraged her to postpone her externship, due to her pregnancy, and in January 2016, denied her request to complete the externship after the postponement. As explained below, prior to OCR completing its investigation, the Institute requested to resolve the complaint by entering into the enclosed voluntary resolution agreement (Agreement).

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), as amended, 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 programs and activities receiving financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

OCR investigated the following legal issue:

Whether the Institute subjected the Complainant to discrimination based on sex, when in January 2016, the Institute denied the Complainant's request to complete her externship after encouraging her to postpone her externship because of her pregnancy, in violation of 34 C.F.R §§ 106.31, 106.40.

Legal Standard

The regulation implementing Title IX at 34 C.F.R. § 106.31(a) provides 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 academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient of Federal financial assistance. The

¹ The Complainant also alleged that the Institute discriminated against her on the basis of disability, namely, pregnancy. However, because the Complainant did not allege any pregnancy-related complications that would constitute a disability under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, OCR did not investigate this allegation.

regulation implementing Title IX at 34 C.F.R. § 106.40(b)(1) specifically prohibits discrimination against students on the basis of their pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions, unless the student requests voluntarily to participate in a separate portion of the recipient's education programs or activities. Title IX requires recipients to generally treat pregnancy and related conditions in the same manner and under the same policies as any temporary disability. Recipients should treat pregnancy and related conditions as a justification for a leave of absence when medically necessary, and upon its completion, reinstate the student's status previously held at the commencement of the leave.

Summary of Preliminary Investigation

During the course of OCR's investigation, OCR reviewed documents provided by the Institute and Complainant, including the Institute's Title IX Policy and Procedures, and the Institute's internal and external correspondence concerning the Complainant from September 11, 2014 to February 15, 2016. OCR also interviewed the Complainant. On August 4, 2016, prior to OCR obtaining additional information to complete its investigation, the Institute requested to engage in a voluntary resolution pursuant to Section 302 of OCR's Case Processing Manual.

OCR's preliminary investigation revealed the following information. In December 2013, the Complainant was admitted to the Institute, which is an accredited private vocational school that provides career education in the fields of allied health, business, and computer technology. In late August 2014, the Complainant registered with the Institute's Office for Career Services to initiate the externship placement process.

Correspondence provided by the Institute indicates that the Complainant advised the Director of Career Services of her pregnancy on August 28, 2014. According to the Complainant, the Director of Career Services told her that he wanted her to complete the externship with her prior place of employment because the organization was aware of her pregnancy. Although the Complainant said the Director of Career Services agreed to look for a new place for her to complete her externship when the one with her prior place of employment failed, the Institute's records indicate that no externship was secured for the Complainant. During the course of its investigation, OCR learned that the Director of Career Services acknowledged that he did not secure externship opportunities for the Complainant. The Director of Career Services stated that he and the Complainant decided that it was in her best interest to wait to complete the externship until after the baby was born. This statement is affirmed by an October 16, 2014 entry in the Institute's Student Activities Log (Log), which reflects that an externship site could not be secured for the Complainant because she was nearing her due date. The Log also notes that the Complainant agreed to re-enter the Institute and complete her externship after the birth of her child. A subsequent Log entry shows that the Complainant dropped out of the program effective October 17, 2014. The Director of Career Services denied that the Complainant informed him of her plan to relocate in 2014.

Correspondence provided by the Institute indicates that in December 2014 and February 2015, the Complainant contacted the Institute to express her desire to complete the externship. Although the Institute's records reveal that the Complainant's externship placement in

Massachusetts was approved in February 2015, it does not appear that the Complainant completed her externship at the site. According to the Institute's records, the Complainant's next correspondence to the Institute was in December 2015, when she sought permission to complete her externship in XXX XXXXXX. In January 2016, the Institute's Executive Campus Director erroneously advised the Complainant that she could not complete her externship outside of Massachusetts. The Institute acknowledges that the information provided to the Complainant was incorrect, but denies that this was done with a discriminatory motive.

Resolution

Prior to OCR completing its investigation and making any findings, the Institute requested to engage in a voluntary resolution pursuant to Section 302 of OCR's Case Processing Manual, and agreed to take steps to address the Complainant's allegations and comply with the above-stated standards. The steps are also responsive to initial concerns identified by OCR during its investigation. In particular, OCR is concerned that the Institute recommended that the Complainant postpone the start date of her externship because of her pregnancy's due date, and that she could not do an out-of-state externship. To complete its investigation, OCR would need to gather additional data and interview Institute staff to determine whether the Institute has articulated a nondiscriminatory reason for its actions, and if so, whether it is pretext for discrimination. Specifically and pursuant to the Agreement, the Institute will: provide the Complainant an opportunity to complete her externship at an approved placement in XXX XXXXXX; reimburse the Complainant for the direct subsidized and unsubsidized loans secured in connection with her studies at the Institute; revise its notice of nondiscrimination; revise its Title IX Policy and Procedure to include a prohibition against sex-based discrimination, including on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions; and provide training to Institute staff and faculty concerning the revised Title IX Policy and Procedure.

Conclusion

OCR finds that the resolution offered by the Institute is aligned with the Complainant's allegations and with the information obtained by OCR. In addition, the resolution offered is consistent with Title IX. OCR will monitor the Institute's implementation of the Agreement, and will notify the parties in writing of the monitoring closure, once it determines that the Institute has satisfied the terms of the Agreement. If the Institute fails to comply with the terms of the Agreement, OCR will resume its investigation.

The matters addressed in this letter are not intended and should not be construed to cover any other issues regarding the Institute's compliance with the regulations implementing Title IX, or the other laws enforced by OCR that may exist but are not discussed here. This letter sets forth OCR's determination in this individual OCR case. This letter contains fact-specific investigative findings and dispositions of this individual 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 Institute 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. The Complainant may have the right to file a private lawsuit regarding the matters raised in this case, whether or not OCR identified compliance concerns.

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

OCR thanks the Institute for its assistance in resolving this matter. If you have any questions regarding this letter and/or OCR's investigative process, please feel free to contact Civil Rights Attorney Abra Francois at (617) 289-0142 or by email at Abra.Francois@ed.gov. Please refer to the complaint number noted above (01-16-2046) in any future telephone or written contact with OCR.

Sincerely,

Diane M. Henson
Regional Director

Enclosure

cc: Jessica Mastrogiovanni
Premier Education Group