



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

January 19, 2018

President Protik Majumder  
Williams College  
880 Main Street  
Hopkins Hall, Third Floor  
P.O. Box 687  
Williamstown, MA 01267  
By Email: [jba1@williams.edu](mailto:jba1@williams.edu)

Re: Complaint No. 01-17-2009  
Williams College

Dear Protik Majumder:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against Williams College (the College), in which the Complainant alleged discrimination on the basis of sex. Specifically, the Complainant alleged that the College imposed a No Contact Order (NCO) against her pursuant to Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulation at 34 C.F.R. Part 106, following an incident with a student with whom she was romantically involved; however, the Complainant further alleged that the College failed to conduct a prompt and equitable investigation into the matter that prompted the issuance of the NCO and wrongly maintained the NCO. The Complainant alleged that, as a result, the College's actions significantly limited her participation in the educational community in violation of Title IX. As explained further below, before OCR completed its investigation, the College expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement

OCR enforces Title IX, which prohibit discrimination on the basis of sex. These laws also prohibit retaliation against any individual who asserts rights or privileges under these laws, or who files a complaint, testifies, or participates in an OCR proceeding. The College is subject to the requirements of Title IX because it is a recipient of Federal financial assistance from the Department.

### **Legal Standards**

Title IX prohibits discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. The Title IX implementing regulation at 34 C.F.R. §

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

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 educational program or activity operated by a recipient of Federal financial assistance.

Sexual harassment that creates a hostile environment is a form of discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature, regardless of the sex of the student. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence. Sexual harassment of a student creates a hostile environment if the conduct is so severe, persistent, or pervasive that it denies or limits a student's ability to participate in or benefit from the recipient's program or activities.

OCR considers a variety of related factors to determine if a hostile environment based on sex has been created and considers the conduct in question from both an objective and a subjective perspective. Factors examined include the degree to which the misconduct affected one or more students' education; the type, frequency, and duration of the conduct; the identity of and relationship between the alleged harasser and the subject or subjects of the harassment; the number of individuals involved; the age of the alleged harasser and the subject of the harassment, the size of the school, the location of the incidents and the context in which they occurred; and other incidents at the school.

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX, including sexual violence and other types of sexual harassment. The procedures for addressing and resolving complaints of sexual harassment should be written in language that is easily understood, should be easily located, and should be widely distributed. An equitable investigation of a Title IX complaint requires a trained investigator to analyze and document the available evidence to support reliable decisions and take into account the unique and complex circumstances of each case. In addition, a recipient should ensure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.

It may be appropriate for a recipient to take interim measures during the investigation of a complaint. In fairly assessing the need for a party to receive interim measures, interim measures should be individualized and appropriate based on the information gathered by the Title IX Coordinator. The measures needed by each student may change over time, and the Title IX Coordinator should communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students' evolving needs.

### **Factual Background**

The Complainant in this matter was a XXXX at the College at the time of the events that gave rise to this complaint. On XXXXXXXX, 2016, the Complainant and another student (Student A), who were previously involved in a romantic relationship, were engaged in an escalating argument, primarily through text messages. As the argument progressed, the Complainant went

to Student A’s dormitory room. XXXXXXXXXXXXXXXX. A third party notified campus security of the argument. Soon after, the Complainant left Student A’s dormitory.

When campus security arrived at Student A’s dormitory, Student A provided a statement describing his past relationship with the Complainant and the events that occurred that night. Campus security explained to Student A the process of obtaining a NCO, which involved issuance through the Dean’s Office. Student A expressed interest in obtaining a NCO. The Complainant XX voluntarily went to the campus security office to provide her narrative of what had happened. The Complainant also expressed interest in a NCO, and campus security explained the process of obtaining a NCO to her. Campus security ensured the safety and well-being of both students that night, and referred the matter to the Dean’s Office pursuant to its regular procedures.

The next day, both students separately spoke to the Dean of Students and explained what had occurred XXXXXXXXXX. Neither student wanted to pursue a Title IX complaint through the College’s Title IX Sexual Misconduct Policy regarding concerns they had against one another from their previous romantic relationship. However, both students agreed that issuing a mutual, reciprocal NCO would be a good idea, and voluntarily agreed to do so. The NCO placed restrictions on their direct communications with each other; restricted their ability to enter each other’s dormitory buildings; and set parameters to what types of spaces they could and could not occupy at the same time. Both students voluntarily signed the NCO. The College and the Complainant agree that the underlying incident on XXXX and the related NCO were covered by the College’s Title IX policies and procedures.

Within a few weeks, the Complainant began to think that the NCO was too restrictive, given the nature of the College’s small campus, and she inquired with the Dean about having it lifted. The Complainant alleges that the Dean informed her that the NCO could not be lifted at that time unless Student A also requested for it to be lifted. The Complainant did not pursue the matter further XXXXXXXXXX that semester or over the summer.

The following semester, at the start of the 2016-2017 academic year, after learning that the NCO would remain in effect for that semester and that it would apply XXXXXXXXXXXXXXXX, the Complaint tried various means, through formal and informal conversations with College staff, to have the NCO lifted or modified to be less restrictive. According to the Complainant, the College informed her that the NCO would stay in effect as long as Student A wanted it to remain in effect. When the College refused to modify the NCO, the Complainant requested that the College investigate the allegations made by Student A that prompted the issuance of the NCO. The College informed her that Student A did not want to pursue a formal investigation against her, and that the College did not consider the situation to be one where the College would formally proceed without the consent or participation of Student A.

**Conclusion**

Before OCR completed its investigation and determined whether the issuance and maintenance of the NCO comported with Title IX, the College expressed an interest in resolving this complaint pursuant to Section 302 of OCR’s *Case Processing Manual*. Subsequent discussions between OCR and the College resulted in the College signing the enclosed Agreement which,

when fully implemented, will resolve the issues raised in this complaint. The terms of the Agreement are aligned with the complaint allegations and are consistent with the applicable laws and regulations. OCR will monitor the College's implementation of the Agreement and continue to do so until it has determined that the College has complied with the terms of the Agreement. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the College'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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College must 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. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, you may contact Benita Brahmhatt at (617) 289-0055 or by e-mail at Benita.Brahmbhatt@ed.gov.

Sincerely,

Meena Morey Chandra *W/P AMM*  
Acting Regional Director

Enclosure

cc: James Art