



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

February 25, 2019

Katherine Bergeron  
President  
Office of the President  
Connecticut College  
[President@ConnColl.edu](mailto:President@ConnColl.edu)

Re: Complaint No. 01-17-2303  
Connecticut College

Dear President Bergeron:

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 Connecticut College (the College). The Complainant alleged that the College discriminated against her on the basis of sex. Specifically, the complaint alleged that the College failed to respond promptly and equitably to allegations of sexual harassment filed by and against the Complainant by, *inter alia*, failing to consider the other student's retaliatory intent in filing, and including statements in the report of investigatory findings that evidenced bias. 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 (Agreement).

OCR 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 has jurisdiction over it pursuant to Title IX.

Because OCR determined that it had jurisdiction and that the complaint was timely filed, OCR opened the following allegation for investigation:

Whether the University failed to respond promptly and equitably to complaints, reports, and/or incidents involving the Complainant of harassment based on sex, including sexual harassment, of which it had notice, and if so, whether the Complainant was subjected to a sexually hostile environment, in violation of 34 C.F.R. Sections 106.8(b), 106.31(a) and (b).

### **Background**

The Complainant enrolled in the College in the XXXXXXXX. During the XXXXXXXX school year, she began a relationship with another student (Student B). The relationship ended in XXXXXXXX.

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

In the XXXXXX, the Complainant contacted an XXXXXXXXXXXX of the College because Student B was XX. That Dean referred the Complainant to the XXXXXXXXXXXX Dean XXXXXXXXXXXX (XXXXXXXXXXXXX Dean), who met with the Complainant that same day to discuss her options.<sup>1</sup> XX XXXXXXXX.

On XXXXXXXX, Student B met with the XX (Assistant Dean) and alleged that the Complainant had engaged in sexual misconduct during the course of their relationship. On XXXXXXXX, the Complainant submitted a written letter to the XXXXXXXXXXXXXXXX Dean, who was at that point handling the College’s response to Student B’s complaint, alleging that Student B had engaged in sexual misconduct against the Complainant during and after the relationship.

In responding to these complaints, the College interviewed both parties with their chosen support persons, interviewed ten other witnesses, provided the parties with its investigative report, allowed both parties an opportunity to respond, issued its final findings, and allowed an appeal of those final findings. Both parties were ultimately found not responsible.

**Legal Standard**

Title IX prohibits discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. The Title IX regulation, 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 operated by a recipient of Federal financial assistance. Sexual harassment that creates a hostile environment can be a form of sex discrimination prohibited by Title IX.

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires recipients to adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of Title IX violations. In response to a complaint of sexual harassment, a recipient must take prompt and equitable action. OCR evaluates on a case-by-case basis whether the resolution of a sexual harassment complaint is prompt and equitable.

**Analysis**

**1. The College’s Grievance Procedures**

The investigation was conducted by two investigators: an external investigator/attorney (External Investigator) and the XX (Internal Investigator) (collectively, Investigators).

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<sup>1</sup> The XXXXXXXXXXXXXXXX Dean informed OCR during the investigation that she did not inform the Complainant that she could file a Title IX complaint because she did not perceive the alleged conduct to be a Title IX issue based on the information provided by the Complainant at the time (i.e., XX).

OCR determined the Investigators looked to three policies/procedures for the investigation of the complaints filed by the Complainant and Student B: (i) the two handbooks that covered the time period of the relationship, to assess whether the conduct had violated the policies in existence at that time (i.e., the Connecticut College January 2015 Student Handbook and the Connecticut College 2015-2016 Student Handbook), and (ii) the handbook in effect at the time of the complaints, to determine the procedures and process to be followed in investigating the complaints (i.e., the Connecticut College 2016-2017 Student Handbook). Specifically, OCR determined that the Investigators applied the procedure set forth in the 2016-2017 Student Handbook for responding to complaints of sexual misconduct (2016-2017 Procedure) in investigating the complaints.

OCR determined that the 2016-2017 Procedure appeared to be consistent with the requirements of Title IX. Since the College requested to voluntarily resolve the complaint, OCR did not complete its investigation regarding the 2016-2017 Procedure and its implementation. OCR also reviewed the College’s current “Title IX Policy”,<sup>2</sup> and found there were no material differences between the policy contained in the 2016-2017 Student Handbook and the current policy.<sup>3</sup> In addition, because the College requested a voluntary resolution, and OCR deemed such a resolution appropriate, OCR has not fully evaluated the College’s current procedure. The Agreement will ensure that the College’s current grievance policy/procedure meets the requirements of Title IX.

## **2. Implementation of the College’s Grievance Procedures**

Student B filed a complaint on XXXXXXXX, the Complainant filed her complaint on XXXXX XXXX, and the College’s findings, dated XXXXXXXX, were reviewed by the Complainant and Student B by XXXXXXXX (88 days after Student B’s complaint). Given the totality of the circumstances, including the Complainant’s XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX, the Complainant’s complaint against Student B, and both parties XXXXX XXXXXXXXXXXXXXXXXXXX, OCR determined that the investigation was prompt.

The College’s Title IX process features three main stages: (i) a preliminary inquiry during which the College decides whether to fully investigate the complaint, (ii) the investigation, and (iii) any discipline deemed appropriate in light of the investigation. Based on its investigation to date, OCR finds that the College’s process provided equal rights and opportunities to the Complainant and Student B during all three stages of processing Student B’s complaint. Specifically, (i) both parties were provided information about their ability to have a support person and their support persons were able to be present equally, (ii) both parties were asked for witnesses who could support their statements, (iii) both parties were given equal access to the draft findings, with an equal opportunity to respond, and (iv) both parties were given an equal opportunity to appeal the findings.

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<sup>2</sup> <https://www.conncoll.edu/media/new-media/title-ix/Title-IX-Policy.pdf>, last accessed 12/17/18.

<sup>3</sup> However, the College’s current policy is bifurcated. The publicly available “Title IX policy” includes information about what conduct could constitute a violation of Title IX, information about how to report, and additional resources for students subjected to discrimination. It does not include details about the procedure for processing complaints. That information is contained in the student and faculty handbooks, which are only available through a login.



