



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

October 19, 2020

Dr. Deborah Hedeem  
By email: [deborah.hedeem@maine.edu](mailto:deborah.hedeem@maine.edu)

Re: Complaint No. 01-17-2317  
University of Maine at Fort Kent

Dear President Hedeem:

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 the University of Maine at Fort Kent (University). The Complainant alleges that the University discriminated against her on the basis of sex. Specifically, the Complainant alleges that the University failed to: provide the Complainant an equal opportunity to communicate with and seek help from one of her professors on the basis of her parental status during the summer of XXXX (Allegation 1); provide notice of its Title IX grievance procedures (Allegation 2); disseminate an adequate notice of nondiscrimination (Allegation 3); and designate at least one employee to coordinate its efforts to comply with Title IX and notify all its students and employees of the relevant employee's or employees' contact information (Allegation 4).

As explained below, OCR is dismissing Allegations 2, 3, and 4 because it obtained credible information indicating that these allegations are currently resolved. Additionally, before OCR completed its investigation, the University expressed a willingness to resolve the remaining allegation (Allegation 1) by taking the steps set out in the enclosed Resolution Agreement.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. Section 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.<sup>1</sup>

### **Summary of Preliminary Investigation**

During spring XXXX, the Complainant and her XXXXXXXX were online students at the University. Both were enrolled in two courses, one of which was XXXXX XX XXXXXX (XXX XXX).

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<sup>1</sup> An amended Title IX regulation went into effect on August 14, 2020 and can be viewed [here](#). However, the Title IX regulation in effect at the time of the underlying events associated with the above-referenced complaint serves as the basis for OCR's determination in this matter, which is available [here](#). For more information about Title IX, including the new Title IX regulation and related resources, visit <https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html>.

*Communication with Professor and University Staff*

On XXXX X, XXXX the Complainant introduced herself via email to her XXX XXX Professor (Professor), informed him that she was pregnant, and inquired as to when she would need to provide medical documentation. The Professor advised the Complainant that she would need to provide documentation prior to hospitalization and referred her to Student Affairs for additional assistance.

On XXXX XX, XXXX the Complainant notified the Professor that she had spoken to Student Affairs and her leave of absence would commence around XXXXX XX. The Complainant asked for “the expectations . . . on getting work completed.” The Professor replied that Student Affairs would “notify [him] of [the Complainant’s] upcoming absence and what their recommendations will be,” but the Complainant could “get [her] assignments done ahead of time since [she had] plenty of time to prepare for [her] absence.”

On XXXX XX, XXXX the Professor emailed the class that only two attempts at each exam would now be allowed (instead of unlimited attempts), with the recorded score being an average of the two attempts. That day, the Complainant and Professor also exchanged two emails regarding the Complainant’s leave of absence. The Professor wrote that he had received no formal communications from Student Affairs and may not receive information “until such time as there is a need for a medical extension.” Until then, he advised the Complainant that University policy allowed for three days of absence in a face-to-face course, which he would interpret as one week for an online course.

Later that day, the Deputy Title IX Coordinator sent the Professor an email that the Complainant had requested a leave of absence and submitted medical documentation. The Deputy Title IX Coordinator wrote that she asked the Complainant to contact the Professor “regarding seeking approval for such absence and/or what accommodation [the Professor is] able to make due to medical needs.”

On XXXX XX, XXXX the Title IX Coordinator emailed the Complainant that the University authorized 12 weeks of leave, which was the amount of time requested by the Complainant’s physician. The Title IX Coordinator then scheduled a telephone call with the Complainant that same day to discuss the Complainant’s preference for completing make-up work, writing that she believed there were “a couple of options available” to the Complainant. After the call, the Title IX Coordinator emailed the Complainant, letting her know that a “deferred grade” had been approved, “which would allow [the Complainant] to pause [her] studies while out and then resume once [she returned] in the fall.”

Over the course of the semester, the Complainant and the Professor exchanged dozens of emails pertaining to various class assignments.

On XXXXX X, XXXX the Complainant delivered her child.

On XXXXX XX, XXXX the Complainant emailed the Professor to ask for clarification on the assignment due dates and wrote it was her understanding that she would be “receiving a deferred

grade (DG) and course assignments need to just be finished by the close of the summer semester.” The Professor confirmed the Complainant would receive a deferred grade for his course, clarified there were “no due dates,” and stated, “Whatever is submitted this summer will be review [sic] next fall when I return to work.” On XXXXX X, XXXX, the Complainant emailed the Professor that she would have all work submitted to him by the end of the summer session on XXXXX XX, XXXX.

On XXXX X, XXXX, the Complainant emailed the Professor that she received zero points on an examination question but should receive full credit. The Complainant wrote that she “believe[d] [her] current score for the exam is 95,” which “should be changed to a 100 as the answer key was incorrect.” The Professor did not respond at that time.

Later that day, the Complainant emailed the Title IX Coordinator that she needed to contact the Professor, but he had his “out of office” reply activated. The Complainant explained that students could elect to retake examinations one time and receive the average of the two scores; however, “because the exams are not showing [her] scores,” she did not “have a way of knowing if it [was] wise to retake them.” The Complainant expressed that she did “not want to get a lower grade because [she was] unable to see [the] exam scores while the other students were all able to.” The Title IX Coordinator responded the next day, letting the Complainant know that the Professor was “often off campus as he is not on contract,<sup>2</sup> but he has been fairly responsive, it just may take a few days to hear back from him.”

Between XXXXX and XXXXX, the Complainant and the Title IX Coordinator exchanged ten emails regarding the Professor’s lack of communication and grading. The Complainant stated she and her XXXXX had “not received any grades since [she] went on leave” and had to “do all assignments and quizzes under the assumption that all [their] knowledge was correct.” She felt it was “unfair to expect [them] to complete the course with no feedback or comments from the instructor.” The Title IX Coordinator responded that “this may just be a miscommunication” and “[i]t was the understanding of [the Professor] and the Provost that there was an agreement to make up the class during the academic year (this fall).” The Complainant replied there was an “understanding” that “the work would be completed over the summer and graded when [the Professor] returned in the fall.”

On XXXXX XX, XXXX, the Complainant emailed the Professor asking when her grade would be posted. The Professor responded the following day that he would grade the coursework during the fall semester and “anticipated” completing it by October break.

On XXXXX XX, XXXX, the Complainant forwarded her XXXXX XX email to the Professor and reiterated that she should receive full credit on an examination question. She also asked whether it was “possible to see the answers for the other exams . . . [because] [t]hey never showed up as showing what questions were wrong after the exam was submitted.” The Professor agreed to give the Complainant credit for the question and noted that the answers for all the examinations should have been displayed unless there was a “misconfiguration in Blackboard.” The Complainant clarified that she was only able to view the answers for one examination. After

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<sup>2</sup> The University states the Professor had a nine-month teaching with the University that ended in XXXXX XXXX and was governed by a collective bargaining agreement.

reviewing Blackboard, the Professor stated that out of all the examinations taken by the Complainant over the summer, only one was misconfigured – an error he had now corrected. The Complainant responded that although she could now see the answers for all the examinations, she was not able to do so earlier.

On XXXXX XX, XXXX, the Complainant and the Professor exchanged five emails regarding one of the examinations. On XXXXX XX, XXX, the Complainant and the Professor exchanged three emails regarding an assignment question.

The University produced communications between the Professor and the students in XXX XXX, including the Complainant and her XXXXX. Only the Complainant and her XXXXX emailed the Professor during summer XXXX. The Complainant’s correspondence is described above. The Complainant’s XXXXX sent an email on XXXX XX, XXXX asking about his score on an exam. Each received the Professor’s out-of-office reply.

The Complainant informed OCR that she received an “A” in the course and graduated in May XXXX.

#### *Notice of Grievance Procedures*

The University reports that prior to XXXXX XXXX, at which time the Complainant was enrolled, its “grievance procedures, notice of non-discrimination and Title IX Coordinator contact information for the Fort Kent campus were published in print materials and disseminated to the campus community in various formats, but not properly posted online.” In XXXXX XXXX, the Complainant “brought to the University’s attention that the Title IX website for the Fort Kent campus was not up-to-date,” and the “University immediately corrected the Title IX website issue.” OCR has confirmed that the University’s grievance procedures are available online.

#### *Notice of Nondiscrimination*

The University’s Title IX Information website<sup>3</sup> provides a link to its “Sex Discrimination, Sexual Harassment, Sexual Assault, Relationship Violence, Stalking and Retaliation Policy and Procedures”<sup>4</sup> (Sex Discrimination Policy). OCR reviewed the University’s Sex Discrimination Policy, which was revised on August 13, 2020, and found that it includes the following statement:

UMS does not discriminate on the basis of sex in its education programs or activities, and UMS is required by Title IX of the Education Amendments of 1972, and the final Title IX regulations issued by the U.S. Department of Education’s Office for Civil Rights in May 2020, not to discriminate in such a manner. The requirement not to discriminate on the basis of sex in the education

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<sup>3</sup> The “UMFK Title IX Information” website may be accessed through the following links: <https://www.umfk.edu/student-life/affairs/title-ix/>; <https://www.umfk.edu/academics/title-ix/>; <https://www.umfk.edu/hr/title-ix/> (last visited 9/22/2020).

<sup>4</sup> See <https://www.umfk.edu/policies/sex-discrimination/> (last visited 9/22/2020).

program or activity extends to admission and employment. Inquiries about the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights, or both.

In addition to the above, the University asserts that its notice of nondiscrimination is published on student application forms, brochures used for prospective student applicants, employment application forms, Student Handbooks, Employee Handbooks, and collective bargaining agreements.

#### *Title IX Coordinator*

The University appointed a new Title IX Coordinator and Deputy Title IX Coordinator in XXXX XXXX and asserts that it announced these positions at a University-wide town hall in or around XXXX XXXX. The University also notes that it disseminated brochures identifying the Title IX Coordinators to different locations on campus in spring XXXX. OCR has not reviewed the spring XXXX brochures or identified where on campus the brochures were distributed. OCR, however, reviewed the University's website and found that the Title IX Coordinators' contact information is published on several of the University's webpages.<sup>5</sup>

#### **Legal Standards and Resolution**

**Allegation 1:** Whether the University discriminated against the Complainant on the basis of sex by failing to provide an equal opportunity to communicate with and seek help from one of her professors on the basis of her parental status during the summer of XXXX, in violation of 34 C.F.R. § 106.40(a), (b)(1).

#### *Legal Standard*

The Title IX regulation, at 34 C.F.R. § 106.40(a), provides that a recipient may not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), provides that a recipient may not discriminate against any student on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), also prohibits a recipient from discriminating against a student or excluding the student from its education program or activity on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Furthermore, the Title IX regulation, at 34 C.F.R. § 106.40(b)(4), requires recipients to treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which

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<sup>5</sup> See, e.g., <https://www.umfk.edu/student-life/affairs/title-ix/>; <https://www.umfk.edu/academics/title-ix/>; <https://www.umfk.edu/hr/title-ix/>; <https://mycampus.maine.edu/documents/219471/224414/UMFK+Title+IX+Brochure.pdf/6e622ebe-2884-147f-c266-af680cee1b2c>; <https://mycampus.maine.edu/documents/219471/224414/2019-2020+Student+Handbook.pdf/a36e46bb-2a14-b5cc-6d40-4764405d09a1>; <https://www.umfk.edu/student-life/affairs/title-ix/parenting/> (last visited 9/22/2020).

such recipient administers, operates, offers, or participates. Additionally, the Title IX regulation, at 34 C.F.R. 106.40(b)(5) requires recipients to treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status held when the leave began.

### *Resolution*

OCR does not have sufficient evidence at this time to determine whether the University discriminated against the Complainant on the basis of sex by failing to provide her with an equal opportunity to communicate with and seek help from one of her professors on the basis of her parental status during the summer of XXXX. To complete its investigation, OCR would need to conduct additional interviews and potentially request data related to students with temporary disabilities or other short-term issues (e.g., illness, emergency, bereavement). These steps would be necessary to fully understand, among other things, what options were presented to the Complainant regarding make-up work, what was discussed with the Complainant about her ability to communicate with the Professor over the summer, how similarly situated students were treated, and how/whether the Complainant was harmed by the University's alleged actions.

Prior to the conclusion of OCR's investigation of the items above, and pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), the University expressed an interest in resolving this allegation and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address this allegation. OCR will monitor the University's implementation of the Agreement.

**Allegation 2:** Whether the University failed to adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by Title IX, in violation of 34 C.F.R. § 106.8(b).

### *Legal Standard*

The Title IX regulation, at 34 C.F.R. § 106.8(b), requires that a recipient adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints of Title IX violations. A recipient must provide notice to students, parents, and employees of the procedures, including where complaints may be filed.

### *Analysis*

The Complainant alleges that the University lacks a "labeled grievance procedure for complaints under Title IX" and that the procedures are "not posted anywhere on the school website." The University disputes the Complainant's allegation that it failed to have Title IX grievance procedures in place and maintains they were "published in print materials and disseminated to the campus community in various formats." The University also indicated that it published its

Title IX grievance procedures online in response to the Complainant informing the University that its Title IX website “was not up-to-date.”

Section 108(k) of OCR’s CPM states that OCR will dismiss a complaint if it obtains credible information indicating that the allegation is currently resolved. OCR did not analyze whether and how the University disseminated its Title IX grievance procedures in print materials; however, OCR reviewed the University’s website and located its Title IX grievance procedures, which are prominently posted on several pages.<sup>6</sup> Based on its review of the University’s website, OCR determined that any concerns regarding whether the University has provided adequate notice of its grievance procedures have been resolved. Therefore, OCR finds that Allegation 2 has been resolved and is dismissing it.<sup>7</sup>

**Allegation 3:** Whether the University failed to disseminate an adequate notice of nondiscrimination, in violation of 34 C.F.R. § 106.9(a)(1).

### *Legal Standard*

The Title IX regulation, at 34 C.F.R. § 106.9(a)(1), requires that each recipient notify applicants for admission and employment, students and parents of elementary and secondary school student, and employees, among others, that it does not discriminate on the basis of sex in the education program or activity which it operates, and that it is required by Title IX and its implementing regulations not to discriminate in such a manner. The notice must state, at least, that the requirement not to discriminate in the education program or activity extends to employment therein and admission thereto unless Subpart C of the regulation does not apply and that inquiries concerning the application of Title IX may be referred to the University’s Title IX coordinator or to OCR.

### *Analysis*

The Complainant alleges that “there has been no distribution of non-discrimination notice . . . in regards to Title IX.” The University, however, asserts that it adopted and disseminated a notice of nondiscrimination via printed materials and subsequently posted it online in or around October XXXX.<sup>8</sup>

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<sup>6</sup> See, e.g., <https://mycampus.maine.edu/documents/219471/224414/Title+IX+Sexual+Harassment+Procedures.pdf/60289546-a2df-7218-1296-63eb97c76f33?t=1599843962060>; <https://www.maine.edu/human-resources/university-equal-opportunity-officers/equal-opportunity-complaint-procedure/>; <http://staticweb.maine.edu/wp-content/uploads/2019/01/Student-Conduct-Code-2018-Complete-accessible.pdf-correctedByPAVE.pdf?0d0f03> (last visited 9/22/2020).

<sup>7</sup> The Complainant’s allegation focused on the University’s alleged failure to adopt and publish Title IX grievance procedures, rather than on the adequacy of the substance of the grievance procedures. As a result, OCR did not conduct a substantive review of the University’s Title IX grievance procedures to determine if they provide for the prompt and equitable resolution of complaints under Title IX.

<sup>8</sup> The University also states its notice of nondiscrimination is published on student application forms, brochures used for prospective student applicants, employment application forms, Student Handbooks, Employee Handbooks, and collective bargaining agreements.

Section 108(k) of OCR’s CPM states that OCR will dismiss a complaint if it obtains credible information indicating that the allegation is currently resolved. OCR reviewed the University’s current notice of nondiscrimination located in the Sex Discrimination Policy<sup>9</sup> and found it is compliant with the Title IX regulation. Based on its review of the policy, OCR determined that any concerns regarding the University’s notice of nondiscrimination have been resolved. Therefore, OCR finds that Allegation 3 has been resolved and is dismissing it.

**Allegation 4:** Whether the University failed to designate at least one employee to coordinate its efforts to comply with Title IX and notify all its students and employees of the relevant employee’s or employees’ name, office address and telephone number, in violation of 34 C.F.R. § 106.8(a).

### *Legal Standard*

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires each recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including any investigation of any complaint communicated to such recipient alleging noncompliance with Title IX or alleging any actions which would be prohibited by Title IX. A recipient must notify all students and employees of the name, office address, telephone number, and email address of the designated coordinator.

### *Analysis*

The Complainant alleges the University failed to designate a Title IX Coordinator and distribute the employee’s contact information. The University states it designated a new Title IX Coordinator and Deputy Title IX Coordinator in February XXXX, and that their names and contact information were announced during a town hall meeting in or around February XXXX. The University acknowledges that the Title IX Coordinator’s contact information was not available online at that time but asserts that brochures identifying the Title IX Coordinators were disseminated to different locations on campus that spring.

Section 108(k) of OCR’s CPM states that OCR will dismiss a complaint if it obtains credible information indicating that the allegation is currently resolved. OCR reviewed the University’s Title IX website,<sup>10</sup> which currently includes the names, titles, office addresses, telephone numbers, and email addresses of the Title IX Coordinators. OCR also verified that the University provides notice of its Title IX Coordinators in various publications, including the student handbook. Based on its review of the University’s website and other publications, OCR determined that any concerns regarding the University’s designation of a Title IX Coordinator have been resolved. Therefore, OCR finds that Allegation 4 has been resolved and is dismissing it.

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<sup>9</sup> See <https://www.umfk.edu/policies/sex-discrimination/>.

<sup>10</sup> See <https://www.umfk.edu/student-life/affairs/title-ix/>; <https://www.umfk.edu/academics/title-ix/>; <https://www.umfk.edu/hr/title-ix/>.

## **Conclusion**

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's CPM, the University expressed an interest in resolving Allegation 1 and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address Allegation 1. OCR will monitor the University's implementation of the Agreement. This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University'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. A 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 University 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.

Sincerely,

/s/

Timothy Mattson  
Compliance Team Leader

Enclosure

cc: Kai McGintee, Esq.