



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

October 18, 2018

Superintendent Sheila M. Harrity
Montachusett Regional Vocational Technical School
By email: harrity@montytech.net

Re: Complaint No. 01-18-1009
Montachusett Regional Vocational Technical School

Dear Superintendent Harrity:

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 Montachusett Regional Vocational Technical School (District). The Complainant alleges that the District discriminated against her daughter (Student) on the basis of sex. Specifically, the complaint alleges that the District excluded the Student from X-PORTION OF SENTENCE REDACTED-X because she was pregnant, even though X-PORTION OF SENTENCE REDACTED-X. As explained further below, before OCR completed its investigation, the District 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 District receives federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Title IX.

Legal Standard

The Title IX regulation, at 34 C.F.R. § 106.31(a), provides that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a recipient's education programs or activities on the basis of sex. In addition, the Title IX regulation, at 34 C.F.R. § 106.40(a), prohibits a recipient from applying any rule concerning a student's parental, family, or marital status which treats students differently from other students on the basis of sex.

The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), specifically 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, unless the student requests voluntarily to participate in a separate portion of the District's education programs or activities.

Furthermore, the Title IX regulation, at 34 C.F.R. § 106.40(b)(2), provides that a recipient may require a student who is pregnant or has given birth to obtain medical certification that the

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student is physically and emotionally able to continue participation only if this type of certification is required for all students with physical or emotional conditions that require the attention of a physician. The Title IX regulation, at 34 C.F.R. § 106.40(b)(4), requires recipients to provide the same special services to a pregnant student that it provides to students with temporary medical conditions.

In order to evaluate whether different treatment on the basis of sex has occurred, OCR first examines whether the student was treated differently from a person of the opposite sex who is in the same or similar situation and, if so, whether the recipient has articulated a legitimate, nondiscriminatory reason for its actions. If so, OCR examines whether any asserted reason is pretext for prohibited discrimination.

When investigating an allegation of different treatment, OCR first determines whether there is sufficient evidence to establish an initial, or *prima facie*, case of discrimination. Specifically, OCR determines whether the District treated the Student less favorably than similarly situated individuals (i.e., students who are not pregnant). If so, OCR then determines whether the District had a legitimate, nondiscriminatory reason for the different treatment. Finally, OCR determines whether the reason given by the District is a pretext, or excuse, for unlawful discrimination.

Resolution

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the District expressed an interest in resolving this complaint and OCR determined that voluntary resolution is appropriate. Subsequent discussions between OCR and the District resulted in the District signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint. OCR will monitor the District's implementation of the Agreement.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the District'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 District 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 Civil Rights Attorney Stephanie Leiter at (617) 289-0006 or by e-mail at Stephanie.Leiter@ed.gov.

Sincerely,

/s/

Molly O'Halloran
Acting Compliance Team Leader

Enclosure

cc: Colby C. Brunt, Esq., Stoneman, Chandler & Miller LLP, CBrunt@SCMLLP.COM