

April 25, 2018

Cristle Collins Judd
President
Sarah Lawrence College
1 Mead Way
Bronxville, New York 10708

Re: Case No. 02-14-2012
Sarah Lawrence College

Dear President Judd:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against Sarah Lawrence College (the College). The Complainant alleged that the College discriminated against her, on the basis of her sex, by failing to respond appropriately to a report of forcible sexual assault that the Complainant made in or around xxxx xxxx.¹

OCR is responsible for enforcing 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 U.S. Department of Education (the Department). The College is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

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 education program or activity operated by a recipient. Sexual harassment that creates a hostile environment is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances; requests for sexual favors; and, other verbal, nonverbal, or physical

¹ OCR notified the College that OCR would also investigate whether the College failed to respond promptly and equitably to other reports and/or incidents of sexual assault/violence of which it had notice; and whether, as a result, students were subjected to a sexually hostile environment. This was not an allegation that the Complainant raised; and subsequent to the commencement of the investigation, OCR determined that it would be making a compliance determination only regarding the allegation raised by the Complainant, as set forth above, and would not be making a compliance determination regarding this additional issue. Instead, OCR will provide technical assistance to the College regarding any other compliance concerns.

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 sufficiently serious that it denies or limits a student's ability to participate in or benefit from the recipient's program.

When responding to alleged sexual harassment, a recipient must take immediate and appropriate action to investigate or otherwise determine what occurred. If an investigation reveals that discriminatory harassment has occurred, a recipient must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. Pending the outcome of an investigation, Title IX requires a recipient to take steps to avoid further harassment as necessary, including taking interim steps before the final outcome of the investigation. The recipient should undertake these steps promptly once it has notice of a sexual harassment allegation. Interim measures are individualized services offered as appropriate to either or both parties involved in the alleged incident of sexual misconduct, prior to an investigation or while an investigation is pending. Interim measures include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations.

The regulation implementing Title IX, at 34 C.F.R. § 106.8(b), requires that a recipient adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action prohibited by the regulation implementing Title IX. OCR has identified a number of elements in determining if grievance procedures are prompt and equitable, including whether the procedures provide for: (a) notice to students and employees of the procedures, including where complaints may be filed, that is easily understood, easily located, and widely distributed; (b) application of the procedures to complaints alleging discrimination or harassment carried out by employees, students, and third parties; (c) an adequate, reliable, and impartial investigation, including an equal opportunity to present witnesses and evidence; (d) designated and reasonably prompt timeframes for major stages of the grievance process; (e) notice to parties of the outcome and any appeal; and, (f) an assurance that the recipient will take steps to prevent further harassment and to correct its discriminatory effects on the complainant and others, if appropriate. Title IX does not require a recipient to provide separate grievance procedures for sexual harassment complaints; however, a recipient's grievance procedures for handling discrimination complaints must comply with the prompt and equitable requirements of Title IX.

The regulation implementing Title IX, 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 the regulation implementing Title IX, including any investigation of any complaint communicated to the recipient alleging any actions that would be prohibited by the regulation implementing Title IX. It also requires each recipient to notify all of its students and employees of the name, office address and telephone number of the employee or employees so designated.

The regulation implementing Title IX, at 34 C.F.R. § 106.9(a), requires each recipient to implement specific and continuing steps to notify applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by Title IX not to discriminate in such a manner. Such notification shall state, at a minimum, that the requirement not to discriminate in the education program or activity extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concerning the application of Title IX and this part to such recipient may be referred to the employee designated pursuant to § 106.8, or to OCR's Assistant Secretary. Section 106.9(b) requires each recipient to include the notice of nondiscrimination in each announcement, bulletin, catalog, or application form which it makes available to the types of persons described in § 106.9(a), or which is otherwise used in connection with the recruitment of students or employees.

During the course of the investigation, OCR reviewed documentation that the Complainant and the College submitted, including the College's sexual harassment and sexual assault/violence policies and procedures. OCR also interviewed the Complainant and her mother, College students, and College personnel, including the Dean of the College (Dean 1); the Dean of Student Affairs (Dean 2); the Dean of Studies and Chief Diversity Officer/Title IX Coordinator (Title IX Coordinator); the Assistant Vice President and Director of Public Safety (Director 1); the Director of Counseling and Psychological Services and Sexual Harassment Liaison (Director 2); the Director of Medical Services (Director 3); and, the Vice President for Human Resources and Hearing Coordinator (the Hearing Coordinator). OCR also interviewed student hearing advisors, a hearing panel member and a resident advisor. In addition, OCR conducted focus group meetings and held office hours at the College.

1. Designation and Notice of Title IX Coordinator

OCR determined that the College has designated a Title IX Coordinator. The College's Equity and Inclusion webpage contains the Title IX Coordinator's name, title, telephone number, office address, and electronic mail (email) address; and, provides links to the College's Non-Discrimination Policy and to the College's Sexual Violence Prevention & Support (SVPS) website, which focuses on sexual assault issues.² The SVPS homepage provides prominent notice of the Title IX Coordinator's name, title, telephone number, office address, and email address. In addition, the College's Policy on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking, which is located in the Student Handbook and online,³ provides the Title IX Coordinator's name, title, office address, telephone number and email address. The College also publicizes information regarding the Title IX Coordinator by displaying posters around the campus that provide information about what to do if you have been sexually assaulted; and, by notifying students, faculty and staff through email messages on an annual basis.

² <https://www.sarahlawrence.edu/svps/> (last visited March 12, 2018).

³ <https://www.sarahlawrence.edu/media/student-life/pdf/SLC-Student-Handbook.pdf> (last visited January 9, 2018).

Based on the foregoing, OCR determined that the College has designated a Title IX Coordinator and has effectively notified all students, employees and beneficiaries of the contact information of the designated Title IX Coordinator, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.8(a). The Title IX Coordinator is responsible for overseeing the College's centralized response to complaints and reports of sexual harassment, including sexual assault/violence.⁴ The Title IX Coordinator, however, is not responsible for conducting Title IX investigations; rather, investigations and hearings are conducted by Director 1 and the Hearing Coordinator.

2. Notice of Nondiscrimination

The College includes a nondiscrimination notice in its Student Handbook,⁵ titled "Nondiscrimination," and on the College's Equity and Inclusion webpage.⁶ The notice states that the College "does not discriminate on the basis of race, sex, gender, color, sexual orientation, gender identity or its expression, disability, religion, age, veteran status, or national or ethnic origin in the administration of its admission, employment, educational policies, scholarship or other financial aid programs, athletics, or other College administered programs" and that inquiries may be referred to the Vice President of Human Resource Services or the Chief Diversity Officer (who is the Title IX Coordinator), or to OCR. The same or similar nondiscrimination notices also appear in several other publications, including the College's Employee Policies and Procedures.⁷

Based on the foregoing, OCR determined that the College includes an appropriate notice of nondiscrimination in several publications, as well as on its website, in accordance with the regulation implementing Title IX, at 34 C.F.R. § 106.9.

3. Grievance Procedures

In response to OCR's request for copies of grievance procedures required by the regulation implementing Title IX, the College provided to OCR its Policy on Sexual Harassment, Sexual Misconduct, and Sexual Assault, which was effective during academic year 2013-2014 when the Complainant filed her complaint with the College (the Former Policy). The Former Policy was included in the Student Handbook and was easily located on the College's website, and provided notice of where complaints of discrimination on the basis of sex, including sexual harassment and sexual assault, could be filed, that was easily understood. The Former Policy applied to students and employees; however, it did not apply to the actions of third parties.

Effective academic year 2015-2016, the College revised its policy; it is now called the Policy on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking (the

⁴The Title IX Coordinator also serves as a resource for students wanting to report sexual harassment, including sexual assault/violence; educates the community about the College's Title IX policies and procedures; and, oversees the College's Sexual Assault Task Force.

⁵ <https://www.sarahlawrence.edu/media/student-life/pdf/SLC-Student-Handbook.pdf>; page 128 (last visited March 13, 2018)

⁶ <https://www.sarahlawrence.edu/about/equity-and-inclusion/#accordion-2-1-1-1> (last visited January 9, 2018).

⁷ https://my.slc.edu/ICS/Employee_Info/Policies_and_Procedures/Nondiscrimination.jnz (last visited March 13, 2018).

2015-2016 Policy) and provides notice of where complaints of discrimination on the basis of sex, including sexual harassment and sexual assault, can be filed, that is easily understood.⁸ The 2015-2016 Policy applies to all students, faculty, staff and student-employees, including former students and employees.⁹ The 2015-2016 Policy does not state that the policy applies to actions of third parties. The College published revised procedures for implementing the Policy, entitled “Addressing Complaints against Students for Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking (collectively, the 2015-2016 Policy and Procedure will be referred to as “the Policy”). A link to the Policy is available in the Student Handbook and is easily located on the College’s website on the SVPS homepage. Information regarding what to do if you are subjected to sexual violence also is prominently posted around campus and on the College’s website.¹⁰

Pursuant to the Policy, students who wish to report an incident of sexual harassment, including sexual assault/violence, should contact any of five different College administrators.¹¹ Under the Policy, there is no time limit for filing a complaint; however, the Policy states that in order for a hearing to occur, “the respondent must be associated with the College at the time the complaint is made and throughout the hearing process.”¹² It also specifies that the “preponderance of the evidence” standard applies to complaints of sexual misconduct. It further explains that the College prohibits retaliation against any person and/or their family and friends, who brought a complaint, cooperated in an investigation, or participated in the discipline process. Once the Hearing Coordinator receives a formal complaint, s/he will discuss with the complainant and the respondent the available options for proceeding, including possible discipline against the respondent; remedial actions to correct the effects of any misconduct; interim measures; and, other measures to enhance security.

The Policy describes interim measures that the College may take to respond immediately to a complaint, including counseling and medical services, academic accommodations, safety plans, legal assistance, and issuing a no contact order. The College also may change housing and provide transportation and escorts, as well as issue a suspension pending the outcome of an investigation.

The College considers mediation for certain kinds of complaints, but mediation is not allowed for complaints of sexual assault or other violence. The Policy provides that mediation will begin within one week of receipt of the complaint; however, the Policy does not state that parties will be notified of their right to end this informal process and begin the formal process at any time.

⁸ The 2015-2016 Policy defines sexual harassment, sexual assault (including non-consensual sexual contact and non-consensual sexual intercourse), in detail; and also includes information about domestic violence, dating violence, stalking, and affirmative consent.

⁹ The Former Policy was revised to be consistent with New York’s “Yes Means Yes” legislation.

¹⁰ See: <https://www.sarahlawrence.edu/media/student-life/pdf/SLC-Student-Handbook.pdf#page=161> (last visited April 17, 2018).

¹¹ The Policy strongly encourages students to report sexual violence and assault, and provides that reporting individuals will not be subject to a Code of Conduct action for violating drug and alcohol use policies occurring at or near the time of the commission of the sexual assault or violence.

¹² Additionally, the Policy states that if a respondent withdraws from the College while conduct charges are pending, a notation will be made on the respondent’s transcript indicating that the respondent “withdrew with conduct charges pending.”

Pursuant to the Policy, upon receipt of a report or complaint, Director 1 or his designee will conduct an investigation of any report or complaint, whether or not a formal complaint was filed; and, the investigation would include obtaining written statements from the parties and witnesses, conducting interviews of the respondent, complainant, and relevant witnesses; and, considering evidence from any other sources the investigator deems appropriate. Following the investigation, the matter is referred for a hearing when a formal complaint is filed; or, if no formal complaint is filed, the matter is referred to the Title IX Coordinator, who determines whether further action is warranted. The respondent is informed of the alleged violations of the Policy; as well as the allegations underlying the alleged violations. The Policy does not provide a timeframe within which Director 1 must complete the investigation or the Hearing Coordinator is required to present the complaint to the Hearing Committee; however, it provides that the Hearing Coordinator will make “reasonable efforts to schedule the hearing in a timely manner.”

The Hearing Coordinator serves as the facilitator at the hearing, but is not a member of the Hearing Committee. The Hearing Coordinator selects the three members of the committee, two staff and one faculty, from a pool of trained Hearing Committee members. During the hearing, the Hearing Committee, complainant and respondent can call witnesses and have access to all information presented. The Policy specifically states that the complainant and respondent can present witnesses, including character witnesses, and question witnesses; testify and present information on his/her own behalf, and make opening and final statements; know, in advance, the names of all persons to be called at the hearing; and, inspect all written statements and materials presented. The Policy does not allow the complainant and respondent to see or question one another or witnesses directly during the hearing. It provides that the hearing room will be set up with a screen or wall between the two parties; and that parties are to provide questions to the Hearing Coordinator, who then questions the other party and witnesses. Both the complainant and respondent can be present at the hearing and be accompanied by an advisor of their choice who is a member of the College staff. The advisors provide guidance to the parties in advance of and during the hearing, but cannot speak at the hearing. The Hearing Committee’s decision is based on a preponderance of evidence standard, required to be in writing, and must include the rationale for the decision, which the Hearing Coordinator distributes to the parties. The Policy does not set forth a timeframe within which the Hearing Committee’s decision is to be provided to the Hearing Coordinator.

Either party can submit an appeal of the Hearing Committee’s decision to the Appeal Committee within five (5) business days of receipt of the decision letter. The Policy outlines the particular grounds on which an appeal may be filed. The Policy does not set forth a timeframe within which the Appeal Committee’s decision to accept, reject, or modify the Hearing Committee’s decision is to be provided to the parties. The Appeal Committee’s decision is final. The Policy also states that the College will remedy any sexual harassment, violence or assault.

The Policy provides that the College’s investigation and resolution of a complaint normally is completed within 60 calendar days of the report; however, this timeframe may be extended for “good cause” with written notice to the complainant and respondent, including the reason for delay. The Policy does not, however, contain specific timeframes for any other major stages of the complaint resolution process or the processing of an appeal, except that it requires parties to submit an appeal of the Hearing Committee’s decision within five (5) business days.

Based on the foregoing, OCR determined that the Policy provides for: (1) notice to students and employees of the grievance procedures, including where complaints may be filed; (2) application of the grievance procedures to complaints alleging sexual harassment or assault/violence carried out by employees and students, but not by third parties; (3) notice to the complainant and respondent of the outcome of the complaint; (4) assurances that the College will take steps to remedy any harassment, misconduct or assault; and, (5) the opportunity for the complainant and respondent to present witnesses, present evidence, and have access to all necessary information. OCR also determined that the Policy provides a timeframe for the initiation of mediation, indicates that the Hearing Coordinator will make “reasonable efforts to schedule the hearing in a timely manner,” indicates that complaints are usually resolved within 60 days, and provides a timeframe for the parties to submit an appeal to the Appeal Committee; however, there are no timeframes for the matter to go to the Hearing Committee, for the Hearing Committee to conduct its hearing and render a decision, or for the Appeal Committee to review the Hearing Committee’s determination. Based on the foregoing, OCR determined that the College has not adopted grievance procedures that provide for the prompt and equitable resolution of complaints of sexual harassment and assault/violence, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.8(b).

4. Complainant’s Allegation

During academic year xxxxx, the Complainant was enrolled at the College and lived in a campus dormitory. The Complainant alleged that the College discriminated against her, on the basis of her sex, by failing to respond appropriately to a report of forcible sexual assault that the Complainant made in or around xxxx xxxx. The Complainant stated that she was raped by another student (Student 1) in the early hours of xxxx xx, xxxx, in xxxxx, and filed a complaint with the College regarding the incident. The Complainant asserted that the College’s hearing and the appeal process regarding her complaint were not fair or equitable, in that the xxxx tried to discourage her from filing a complaint, by stating that the Complainant and Student 1 would have to question each other, and that the Complainant would have to let Student 1 ask her anything he wanted; the College did not take her class schedule into consideration when scheduling the hearing; the hearing panel effectively put her on trial and made her prove her case by telling her to find witnesses to support her assertion that Student 1 assaulted other students; and, the College repeatedly asked her for documents from the hospital and the district attorney. The Complainant also alleged that the College did not have a policy that prohibited retaliation, and allowed respondents to directly question students complaining of sexual assault/violence.¹³ Additionally, the Complainant asserted that the College blamed her when Student 1 violated a no contact order (NCO), and told her that Student 1 was “keeping a low profile” and that the Complainant needed to do the same.

OCR determined that in the early hours of xxxx xx, xxxx, the Complainant reported to the College’s Public Safety Office that Student 1 had just raped her in xxxxx. The Complainant then met with Director 1 and Director 2 and spoke with them about what happened. Director 1 and Director 2 explained the complaint process. The Complainant also contacted and met with local

¹³ As discussed earlier, OCR determined that the College has a policy prohibiting retaliation and does not allow either party to question one another during a hearing.

police, who transported her to the hospital for evaluation.¹⁴ On the morning of xxxx xx, xxxx, the Public Safety Office sent a Safety Alert to the College community notifying them generally that a report of sexual assault had been received. The Safety Alert included the date of the incident; indicated that the incident involved two College students; indicated that the College would be conducting an investigation and that local law enforcement had been notified; requested that anyone with information about the incident come forward; and, included safety suggestions and information on steps taken by the College in response to reports of sexual assault.

The police xxxxx Student 1. The College initially prohibited Student 1 from returning to campus because Student 1 refused to speak with Director 1 to allow Director 1 to conduct a threat assessment to determine whether Student 1 could return to campus. Approximately xxxx days later, Student 1 agreed to speak to Director 1, and Director 1 conducted a threat assessment; the assessment involved interviewing Student 1, reviewing his disciplinary records, and having health services staff review his medical records. On or about xxxx xx, xxxx, Director 1 determined that Student 1 did not present a threat to the Complainant or the College community; therefore, Director 1 allowed Student 1 to return to campus.¹⁵

On xxxx xx, xxxx, the College issued an NCO prohibiting the Complainant and Student 1 from contacting or knowingly being within 100 feet of each another. The College also offered the Complainant counseling and a safety plan, and placed her on the transport list so she could call for transport to and from class and her dormitory.

On xxxx xx, xxxx, the Complainant met with the xxxx regarding her complaint of sexual assault. The xxxx informed OCR that she referred the Complainant to the Student Handbook for information about the hearing process;¹⁶ and, asked the Complainant to submit a formal written complaint and a list of witnesses, and to select an advisor.¹⁷ The xxxx stated that she also encouraged the Complainant to take advantage of counseling and other resources offered by the

¹⁴ The Complainant stated that although the College's handbook states that the College's Public Safety Office will transport students to the Lawrence Hospital emergency room, the police escorted her to xxxxxx Hospital instead. The Complainant related that she had a terrible experience at xxxxxx Hospital, spending xxxx, and being subjected to a rape kit performed by an inexperienced male doctor. The xxxx stated that the College tries to get victims into Lawrence Hospital, with which it has a good relationship; however, the police took the Complainant to xxxxx, as per police protocol. The xxxx believed that this was due to the Complainant's contacting the police department directly rather than through the College's Public Safety Office.

¹⁵ Director 1 stated that prior to Student 1's return to campus, the Complainant informed Director 1 that Student 1 had sexually assaulted another student. Director 1 interviewed the alleged victim, who said the allegation was "totally untrue." The Complainant also notified Director 1 that she had heard that Student 1 was at a party on campus over the weekend. Director 1 contacted the person who allegedly saw Student 1, but the person did not respond and no further action was taken. Additionally, the Complainant informed Director 1 that two alleged witnesses saw Student 1 driving by the campus on a public street. Director 1 said he spoke with the witnesses, and they presented conflicting information about the alleged sighting; however, both said the person alleged to be Student 1 was not on campus and was on a public street.

¹⁶ Pursuant to the Former Policy, parties were permitted to question each other directly during the hearing. This procedure was changed prior to the Complainant's hearing and the parties were not permitted to question each other directly.

¹⁷ Pursuant to the Former Policy and the 2015-2016 Policy, the complainant and respondent each have the right to select any member of the College community to serve as his or her advisor during the hearing process. The Complainant conceded that the xxxx explained the investigation and hearing processes.

College, but the Complainant declined and said she already was seeing a counselor. That same day, the Complainant submitted a formal written complaint against Student 1, in which she alleged that after meeting Student 1 on xxxx xx, xxxx, they went to the Complainant's xxxx and Student 1 raped her.

On or about xxxx x, xxxx, the xxxx contacted Student 1 to discuss the complaint. She informed him of the complaint, explained the hearing process, and asked for his statement and for witnesses.

Also on xxxx x, xxxx, the College sent an email to the campus community regarding this and another alleged sexual assault on campus,¹⁸ to reassure students that they were safe and to inform them that the College was addressing the alleged incidents, including by asking a sub-group of the Student Life Committee to explore the issue and report findings and recommendations to the College President. Additionally, on xxxx x, xxxx, the College President cancelled classes and held a campus-wide convocation to discuss concerns about sexual assault and sexual violence. Moreover, in xxxx xxxx, students held several marches in support of victims of sexual violence; the College's Office of Student Life and Student Senate held meetings to discuss the College's sexual assault policies; and, College administrators met with students who presented a report with short and long-term recommendations, some of which were immediately implemented.¹⁹

During xxxx xxxx, the xxxx gathered written statements from witnesses identified by the Complainant and Student 1. Director 1 interviewed the Complainant, Student 1, and witnesses; and reviewed documentation, including medical documentation from the hospital from the day of the alleged assault. The College scheduled a hearing for xxxx x, xxxx, and the Complainant and Student 1 selected advisors to assist them in preparing for the hearing.²⁰

On xxxx xx, xxxx, the Complainant informed Dean 2 that Student 1 came near her at one of the College's eateries that day, in violation of the NCO. The Complainant asserted that Dean 2 responded by blaming her for being near Student 1, and asked why she "set it up so he would be near [the Complainant]." Dean 2 denied blaming the Complainant or making the alleged statement. OCR determined that Dean 2 investigated the matter by questioning the parties, speaking with witnesses, and visiting the area where the Complainant indicated she observed Student 1. Dean 2 determined that Student 1 had not knowingly violated the NCO and that it was an "unfortunate coincidence" that he was in the same space as the Complainant. Dean 2 nevertheless reiterated the terms of the NCO to Student 1.

On or about xxxx x, xxxx, the Complainant informed Director 1 that Student 1 walked past her at the College's xxxxxxxx. Student 1 admitted seeing the Complainant and walking past her,

¹⁸ Another student reported an alleged sexual assault in or around xxxx xxxx.

¹⁹ Recommendations included changing the orientation program, offering consent workshops, placing more posters around campus with information regarding what to do following an act of sexual assault/violence, and correcting the telephone number for Victims Assistance Service. The College promptly placed more posters around campus and corrected the telephone number.

²⁰ The Complainant asserted that the College insisted on holding the hearing on a date that conflicted with one of her classes; however, OCR determined that once the Complainant proposed changing the time of the hearing, the College immediately accommodated the Complainant's preference to attend the class and rescheduled the time of the hearing.

contrary to the NCO. Therefore, by letter dated xxxx x, xxxx, the Director of Residential Life notified Student 1 that because he was found in violation of the NCO, he was restricted from campus until the hearing on xxxx x, xxxx.

A Hearing Panel convened on xxxx x, xxxx, during which the Complainant and Student 1 had the opportunity to present evidence and witnesses; ask questions of the opposing party through the xxxx, but not directly; question witnesses directly;²¹ provide opening and closing statements; and, have advisors present. Following the hearing, the Hearing Panel deliberated and determined that Student 1 was responsible for violating the Former Policy, based on a preponderance of the evidence, by sexually assaulting the Complainant. The College suspended Student 1 for the remainder of academic year xxxx-xxxx, which included prohibiting him from being on campus or participating in any off-campus, College-sponsored/affiliated activities. By email dated xxxx x, xxxx, the xxxx instructed Student 1 to pick up a letter setting forth the Hearing Panel's determination by 3:00 p.m., and instructed the Complainant to pick up the letter after 3:15 p.m., so that they would not come in contact with each other.

On xxxx xx, xxxx, Student 1 appealed the decision, and the appeal was referred to the Appeals Committee.²² By email dated xxxx xx, xxxx, the Complainant responded to the appeal. On xxxx xx, xxxx, the Appeals Committee convened. By email dated xxxx xx, xxxx, the Chair of the Appeals Committee notified the parties, the Hearing Panel, and the Title IX Coordinator, that the Appeals Committee rejected the appeal because the Committee “did not find that there was a process or procedural error made that was significantly prejudicial to the outcome of the hearing or that would have altered the outcome of the hearing or the sanction imposed.”

Based on the foregoing, OCR determined that the College promptly and equitably responded to the Complainant's complaint, and offered her interim measures, including counseling. The College also promptly issued an NCO prohibiting the Complainant and Student 1 from contacting each other, and promptly investigated and responded to concerns raised by the Complainant regarding potential violations of the NCO, including suspending Student 1 when he was found in violation of the NCO. OCR determined that the parties were treated equitably during the course of the investigation and the hearing, and both parties were notified of the Hearing Committee's determination. The investigation was completed within approximately one month of the Complainant's initial report and the appeal was determined within 14 days. Therefore, OCR determined that there was insufficient evidence to substantiate the Complainant's allegation that the College discriminated against her, on the basis of her sex, by

²¹ Pursuant to the Former Policy, parties were permitted to question witnesses directly during the hearing. This procedure has been changed and parties are no longer permitted to question witnesses directly.

²² In his appeal, Student 1 asserted that there was a “process or procedural error made that was significantly prejudicial to the outcome of the hearing” because: (1) the confidentiality of the hearing process was severely, repeatedly and purposefully breached by the Complainant; and, (2) retaliatory acts were taken against him throughout the hearing investigation process, affecting his participation and therefore its outcome. Specifically, Student 1 asserted that a week after the Complainant filed the complaint and was informed of the confidentiality of the process, the Complainant xxxx in which she called Student 1 a “rapist” and demanded that the College expel him prior to the hearing. More than xxx people xxxxx. In addition, Student 1 asserted that before the hearing, the Complainant xxxx, in which she xxxx that Student 1 deserved to be xxxx; xxxx of the alleged assault, which resulted in xxxx that referred to Student 1, xxxx, as a “rapist”; named Student 1's xxxx in xxxx xxxx and suggested that xxxx the College was the reason he was not expelled prior to the hearing; and, told the community and local police about the hearing.

failing to respond appropriately to a report of forcible sexual assault that the Complainant made in or around xxxx xxxx.

To address the compliance issues that OCR identified with respect to the grievance procedures, and other issues related to documenting investigations, on April 6, 2018, the College signed the enclosed resolution agreement. OCR will monitor the implementation of the resolution agreement.

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 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 individual may file a complaint alleging such treatment.

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

If you have any questions regarding OCR's determination, please contact Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or anna.moretto.cramer@ed.gov; or Eboné Woods, Compliance Team Attorney at (646) 428-3898 or ebone.woods@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: xxxxxxx