



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV**

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

October 22, 2013

Brendan P. Sheehey
Corporate Counsel
Corinthian Colleges, Inc.
6 Hutton Centre Dr., Ste. 400
Santa Ana, CA 92707

OCR Complaint #04-13-2067

Dear Mr. Sheehey:

The U.S Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint, filed on December 20, 2012, against the Everest Institute (Institute), alleging discrimination on the bases of sex and disability. Specifically, the Complainant alleged that the Institute discriminated against him by:

1. Treating him in a manner that was different from the manner in which similarly situated female students were treated with respect to policies, such as, requiring him to wear certain colored shirts and not requiring female students to do so; and
2. The Institute subjected him to a hostile environment based on disability, when it was assumed that he was HIV positive, and
 - (a) a financial aid officer refused to accept his application for a work study program;
 - (b) classmates were allowed to ridicule him in class about being HIV positive;
 - (c) when a professor required him to wear a red shirt to class and then stated that there was one person in the class who was HIV positive and she could not disclose their identity and then not requiring other students to wear a red shirt;
 - (d) requiring him to be retested for HIV after someone accidentally stuck him during a class and there were with him paperwork verifying that he had taken the tests;
 - (e) when he was not allowed to make-up a test after he was late for class due to a meeting with his Veteran's Administration Counselor; and
 - (f) when an administrator made comments about him having a weak handshake.

OCR opened the complaint for investigation pursuant to Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681 et seq., and its implementing regulation, 34 C.F.R. Part 106, and Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of sex and disability by recipients of Federal financial assistance.

OCR investigated the following legal issues:

1. Whether the Institute subjected the Complainant to separate or different rules of behavior, sanctions, or other treatment, in noncompliance with the Title IX implementing regulation at 34 C.F.R. § 106.31(a),(b)(1)-(4) and (7); and

2. Whether the Institute, on the basis of disability, excluded a qualified student with a disability from participation in, denied the Complainant the benefits of, or otherwise subjected the Complainant to discrimination regarding any postsecondary education aid, benefits, or services, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4(a), (b)(1)(i),(ii) and (vii).

During OCR's investigation of this complaint, the Institute offered to voluntarily resolve issue #2. Pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*, a complaint may be resolved when, before the conclusion of an investigation, the recipient or public entity expresses an interest in resolving the complaint. Based on the foregoing, OCR accepted the Institute's request and the Institute entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve issue #2. OCR will monitor the Institute's implementation of this Agreement to ensure that it is fully implemented. If the Institute fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504.

With respect to issue #1, OCR's investigation included a review of the documents provided by the Institute and Complainant, and interviews with the Complainant and Institute personnel. After a thorough review of all the evidence available, OCR found insufficient evidence of noncompliance with Title IX with respect to the complaint issue. The factual and legal bases for OCR's conclusions are set forth below.

Legal Standard

The regulation implementing Title IX at 34 C.F.R. § 106.31(a) (b) (1)-(4) and (7) 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 academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. Further, in providing any aid, benefit or service to a student, a recipient shall not, on the basis of sex, treat a person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service; provide different aid, benefits, or services, or provide aid, benefits, or services in a different manner; deny any person any such aid benefit or service; subject any person to separate or different rules of behavior, sanctions or other treatment; or otherwise limit any person in the enjoyment of any right, privilege, advantage or opportunity.

Different Treatment Based on Sex

The Complainant alleged that during the 2012-2013 academic year, he was subjected to different treatment on the basis of sex. The Complainant contends that because he is a male in the field of medicine, he is in the minority. He stated that one of the Institute's instructors came to him and in a whisper advised him that he should wear a red shirt to the HIV/AIDS Awareness Program (Program) that was scheduled to be held at the Institute. The Complainant contends that he wore the red shirt and that he was the only person in his class at the Program who had on a red shirt.

In its March 15, 2013 letter to OCR, the Institute stated that it treats all students in the same manner with equal application of its policies, procedures and code of conduct and stated that on October 17, 2012, the entire Institute was invited to wear red. The Institute provided a copy of a flyer for the weeks' events, which included the statement "wear your favorite red shirt in support of HIV."

OCR interviewed the Complainant's classmates who informed OCR that both female and male students wore reds shirts at the Program. Staff members interviewed by OCR confirmed that the Complainant was not the only student who wore a red shirt. In addition, the Institute submitted three photographs to OCR showing male and female students in red shirts.

Analysis and Conclusion

The evidence is insufficient to support a finding of different treatment. Based on interviews with staff and students, and information provided by the Institute, the evidence indicates that the Institute did not require students to wear red shirts based on sex during the Program. Although the Complainant contends that he was forced as a male student to wear a red shirt to the Program and that he was the only student to do so, photographs provided from the event show that other students, both male and female, also wore red shirts on the day in question. Additionally, when interviewed, staff and students confirmed that both male and female students wore red shirts for the Program's presentations on the day in question.

Accordingly, based on the preponderance of the evidence, OCR concludes that there is insufficient evidence to show that the Institute subjected the Complainant to different treatment on the basis of his sex, as alleged, in noncompliance with Title IX.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Institute'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.

Please be advised that the Institute 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 Complainant may file another 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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

If you have any questions regarding this matter, please contact Terri Whynter, Investigator, at (404) 974-7375 or Rosemary Smith, Compliance Team Leader, at (404) 974-9374.

Sincerely,

/s/

Cynthia G. Pierre, Ph.D.
Regional Director

Enclosure