



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Reference: 06-12-2184

Dr. Donald V. Weatherman, President
Lyon College
P.O. Box 2317
2300 Highland Road
Batesville, Arkansas 72503

Dear President Weatherman:

This letter is to notify you of the determination of the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, regarding the above-referenced complaint, which was received by OCR on XXX, and filed against Lyon College (LC), Batesville, Arkansas. The complaint alleges that LC discriminated against the complainant on the basis of his sex (male), in violation of Title IX of the Education Amendments of 1972 (Title IX), 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.

OCR opened the following issue for investigation:

1. Whether LC failed to meet its responsibility to take immediate and appropriate corrective action responsive to the complainant's XXX report of sexual harassment when the complainant was notified in late XXX that LC would no longer provide him with XXX he had been XXX to XXX with the XXX of the sexual harassment, in violation of 34 C.F.R. § 106.31.

OCR is responsible for determining whether organizations that receive or benefit from Federal financial assistance from the Department, or an agency that has delegated investigative authority to the Department, are in compliance with Title IX, which prohibits discrimination on the basis of sex. OCR determined that LC is a recipient of Federal financial assistance from the Department. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Title IX.

A finding that a recipient has violated one of the laws that OCR enforces must be supported by a preponderance of the evidence (*i.e.*, sufficient evidence to prove that a particular proposition is more likely than not). When there is a significant conflict in the evidence and OCR is unable to resolve that conflict (for example, due to the lack of corroborating witness statements or additional evidence), OCR generally must conclude that there is insufficient evidence to establish a violation of the law.

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

During the course of this investigation, OCR interviewed the complainant and LC's Human Resources Director/Title IX Investigator (HR Director) who investigated the complaint of sexual harassment at issue. Additionally, OCR considered documentation and information provided by the complainant and LC. Based on our review and analysis of the information obtained during this investigation, OCR has determined that there is sufficient evidence to support a finding of a violation of Title IX. On March 9, 2015, LC voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve the compliance issues identified in this investigation and provided OCR with an updated version of the Agreement on March 24, 2015 with corrected completion dates.¹ OCR has determined that the provisions of the Agreement are aligned with OCR's compliance concerns regarding the specific civil rights issues examined and will appropriately resolve them. OCR will monitor LC's completion of the steps outlined in the Agreement to ensure that they are fully implemented. This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the complaint was resolved.

Issue #1: Whether LC failed to meet its responsibility to take immediate and appropriate corrective action responsive to the complainant's XXX report of sexual harassment when he was notified in late XXX that LC would no longer provide him with XXX he had been XXX to XXX with the XXX of the sexual harassment, in violation of 34 C.F.R. § 106.31.

Allegation

The complainant alleged to OCR that in XXX, he informed LC that he had been sexually harassed by XXX who also XXX (Harasser). After LC conducted an investigation and determined that the sexual harassment had occurred, the Harasser was XXX. The complainant states that, as part of LC's remedies for the sexual harassment, it offered to pay for XXX, but refused to pay for XXX.

Legal Standard

Sexual harassment may be a form of sex discrimination that violates Title IX. A sexually hostile environment exists if harassment based on sex is sufficiently severe, pervasive or persistent to limit or interfere with an individual's ability to participate in or benefit from the school's programs. When investigating or otherwise resolving incidents of sexual harassment of students, OCR will also consider whether: (1) the school has a policy prohibiting sex discrimination under Title IX and effective grievance procedures, (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment, and (3) the school has taken immediate and appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects.

OCR followed applicable case law and OCR guidance documents and reviewed whether: (1) LC has a policy prohibiting sex discrimination under Title IX and effective grievance procedures, (2) LC appropriately investigated or otherwise responded to allegations of sexual harassment, and (3) LC took immediate and appropriate corrective action responsive to the sexual harassment,

¹ Throughout this letter, when OCR uses the term "Agreement" this agency is referring to the revised Agreement signed on March 24, 2015.

including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects. OCR analyzed the complainant's claim that LC failed to pay for certain counseling sessions under this third prong.

Investigative Findings

OCR began its investigation by determining whether LC has a policy prohibiting sex discrimination under Title IX and examining LC's grievance procedures.

a. Whether the school has a policy prohibiting sex discrimination under Title IX and effective grievance procedures

In accordance with OCR's guidance documents, OCR began its analysis by reviewing LC's notice of non-discrimination to determine whether the school has a policy prohibiting sex discrimination under Title IX.² The applicable Title IX regulation states that a recipient's notice of non-discrimination should state, "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" (34 C.F.R. section 106.9(a)).

OCR reviewed LC's revised sexual harassment policy to ensure that it includes an appropriate notice of non-discrimination which clearly states that RC does not discriminate on the basis of sex in its programs or activities and that it is prohibited from discriminating on the basis of sex. These procedures are posted in LC's Policy Handbook. The revised sexual harassment policy does include an appropriate statement prohibiting sex discrimination under Title IX and includes the contact information for both LC's Title IX Coordinator as well as OCR Dallas. Accordingly, OCR determined that LC's notice of non-discrimination meets the applicable requirements.

Next, OCR examined LC's grievance procedures. The applicable Title IX regulation states that a recipient's grievance procedures must provide for "prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part" (34 C.F.R. section 106.8(b)). While a recipient need not adopt a separate set of grievance procedures specifically to handle complaints of sexual harassment, the grievance procedures to handle discrimination complaints must provide effective means to prevent and respond to sexual harassment. Because OCR did not receive any evidence to indicate LC has a different set of grievance procedures to respond to complaints of sex discrimination, LC's revised sexual harassment policy was examined to determine if it contained the appropriate information required for grievance procedures. Below is a discussion of the items OCR has determined should be included in every recipient's grievance procedures for sex discrimination complaints (including complaints of sexual harassment) and a short analysis of whether LC's revised sexual harassment policy includes the listed item:

² On XXX, LC provided OCR with its notice of non-discrimination and sexual harassment policy. After a discussion on XXX to discuss OCR's initial compliance concerns, LC provided OCR with a revised sexual harassment policy on XXX. LC's revised policy is the document that is analyzed throughout this letter.

1. *Notice of grievance procedures and how to file a complaint*

The revised sexual harassment policy does list the job title and contact information for the individuals to whom a complaint of sexual harassment should be reported (which varies depending on whether the victim is a student, staff or faculty). This point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

2. *Applies to behavior by employees, students and third parties*

The revised sexual harassment policy clarifies that it applies to actions by faculty, staff, students, and third parties. OCR believes this point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

3. *Adequate, reliable, and impartial investigation including the opportunity to present witnesses*

LC's revised sexual harassment policy does provide specifics regarding some of the steps that will be taken as part of LC's investigation, such as saying that the Human Resources Director/designated official will contact the alleged harasser and inform him or her of the charges against them, give the alleged harasser an opportunity to respond to the charges, that other individuals who might have knowledge of the incident will be questioned, and that LC will notify both the victim and the harasser of LC's conclusions. However, the revised policy is grammatically difficult to understand and does not clarify that either party can identify a witness they believe can provide relevant information. Per the terms of the Agreement, LC will revise its sexual harassment policy to use language which is more easily understood and outline in further detail the major steps that will be taken as part of its investigation into a complaint of sexual harassment.

4. *Equal opportunity for both parties to present evidence*

LC's revised sexual harassment policy does not include this language. Per the terms of the Agreement, LC will revise its sexual harassment policy to clarify that both the accuser and the accused can provide LC with evidence during its investigation.

5. *Designated and prompt time frames for major stages*

LC's revised sexual harassment policy does not include this information, other than to state that the Human Resources Director/designated official will contact the alleged harasser within a certain number of days to inform him or her of the allegation (the exact number of days has not yet been decided by LC). Per the terms of the Agreement, LC will revise its sexual harassment policy to clarify the anticipated time frames for the major steps of its investigation (*e.g.*, time to acknowledge receipt of a written complaint, general timeframe to complete an investigation, etc.)

6. *Written notice to both parties of the outcome of the investigation*

LC's revised sexual harassment policy states that both parties will be notified of the outcome of the investigation, but does not state that the notice will be provided in writing. Per the terms of the Agreement, LC will revise its sexual harassment policy to clarify that LC will provide written notification to the allegedly harassed student and the alleged harasser explaining LC's investigative process, its factual findings, its determination as to whether harassment occurred, the reasons for the decision, and the appeal procedures, if any. LC will inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant, sanctions imposed on the perpetrator that directly relate to the complainant (*e.g.*, requiring the perpetrator to stay away from the complainant, transferring the perpetrator to another residence hall or class, etc.), other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, (*e.g.*, counseling services for the complainant and other affected students), and other steps the school has taken to prevent recurrence (*e.g.*, sexual violence training for staff, campus climate surveys, etc.)

7. *Assurance that school will take steps to prevent recurrence and correct discriminatory effects on complainant and others*

LC's revised sexual harassment policy does not include this language. Per the terms of the Agreement, LC will revise its sexual harassment policy to include an assurance that LC will take steps to prevent recurrence of any sexual harassment and correct its discriminatory effects on the complainant and others.

8. *Adequate definition of sex harassment with examples*

LC's revised sexual harassment policy includes an adequate definition of sexual harassment, along with examples. OCR believes this point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

9. *Preponderance of the evidence standard*

LC's revised sexual harassment policy does not include this statement. Per the terms of the Agreement, LC will revise its sexual harassment policy to include this statement.

10. *Notice against retaliation*

LC's revised sexual harassment policy contains a clear anti-retaliation statement. OCR believes this point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

11. Notice of right to proceed with criminal investigation and Title IX complaint simultaneously

LC's revised sexual harassment policy does not include this statement. Per the terms of the Agreement, LC will revise its sexual harassment policy to include language so individuals understand they do not have to wait for the final outcome of a criminal investigation (if a criminal complaint is filed) to also file a sexual harassment complaint with LC.

12. Notification of right to end informal process at any time and begin formal process

LC's revised sexual harassment policy does not include this statement, but LC does not have a separate informal versus formal process so this requirement is moot for LC.

13. Interim measures to be taken

LC's revised sexual harassment policy does not include this statement, other than to say LC may separate the complaining party and the alleged harasser to eliminate contact. Per the terms of the Agreement, LC will revise its sexual harassment policy to clarify the interim measures that will be taken while LC is investigating an allegation of sexual harassment.

14. Counseling and resources for complainant

LC's revised sexual harassment policy does not include this statement, other than to say LC may separate the complaining party and the alleged harasser to eliminate contact. Per the terms of the Agreement, LC will revise its sexual harassment policy to clarify the resources available for a complaining party.

15. Notice of right not to appear in hearing room

LC's revised sexual harassment policy does not include this statement, but since no formal hearing is held, this point is moot for LC.

16. Confidentiality for the victim

LC's revised sexual harassment policy includes an appropriate statement protecting the confidentiality of the victim to the extent practicable and states that LC will only make disclosures on a need-to-know basis. OCR believes this point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

17. Cross by accused

Because no formal hearing is held, this point is moot for LC because there is no opportunity for the accused to cross-examine the victim.

18. *Equal right to appeal*

LC's revised sexual harassment policy states that faculty and staff can appeal only a sanction imposed after a finding that the faculty member has sexually harassed someone, but not the finding of sexual harassment itself. Neither the complaining party nor the accused is given the opportunity to appeal. OCR believes this point is met with LC's revised sexual harassment policy. There are no compliance concerns for this item.

Other complaints of sexual harassment

During the XXX and XXX school years, LC received a total of eight complaints of sexual harassment. During the XXX school year, LC received three sexual harassment complaints: one involved a XXX who was allegedly abusive to XXX, one involved XXX who XXX, and the final complaint involved a XXX. In all three cases, LC determined that the sexual harassment occurred. In the first complaint involving the XXX, the XXX withdrew from LC before a sanction could be imposed. In the second and third complaints with the XXX, respectively, the (XXX to end of sentence).

During the XXX school year, LC received five sexual harassment complaints. Four of the complaints were XXX and the fifth complaint was XXX. In the first two XXX complaints, LC could not substantiate that the harassment occurred. In the third XXX complaint, the victim notified the harasser that his actions were upsetting her and he stopped. In the fourth XXX complaint, a XXX admitted to XXX. In response, LC barred that student from pledging a fraternity, attending student sponsored events or walking by/entering the residence hall where the victim lived for the rest of the semester. In the fifth complaint, a (XXX to end of sentence). The XXX was XXX from a XXX and his XXX was not XXX at the end of the XXX school year. Based on OCR's review of the actions summarized above, OCR has determined that the actions taken by LC to investigate and respond to the complaints of sexual harassment it received during the XXX and XXX school years was appropriate.

OCR made several requests to LC's attorney to provide information showing that LC gave written notice of the outcome of LC's investigations to any of the individuals who filed complaints of sexual harassment with LC during the XXX or XXX school years. OCR did not receive any responsive documentation.

OCR's investigation found compliance concerns regarding LC's grievance procedures for responding to complaints of sexual harassment. Specifically, items 3, 4, 5, 6, 7, 9, 11, 13 and 14 of LC's revised sexual harassment policy need to be revised according to the language in the Resolution Agreement. Thus, LC's current grievance procedures are not effective.

b. *Whether the school appropriately investigated or otherwise responded to allegations of sexual harassment*

Once a school has notice of possible sexual harassment, it should take immediate and appropriate steps to investigate or otherwise determine what occurred. The specific steps in an investigation

will vary depending on factors such as: the nature of the allegations, the source of the complaint, and the age of the student involved. In all cases, the inquiry must be prompt, thorough, and impartial. OCR reviewed a written summary of LC's investigation and also interviewed the HR Director who conducted the investigation into the complainant's allegations and determined that LC met its responsibility to appropriately investigate or otherwise respond to the allegations of sexual harassment it received from the complainant.

The HR Director was the LC employee who investigated this complaint of sexual harassment. According to the HR Director, the complainant first reported his allegation of sexual harassment to the Director of Student Counseling on XXX. The next day, on XXX, the complainant met with the HR Director and Dean of Faculty (Dean) to review the allegations. The complainant provided LC with the following timeline of events:

- XXX: The complainant declares himself a XXX major and the Harasser XXX,
- XXX: The complainant XXX to the Harasser about (XXX to end of sentence),
- XXX: The Harasser begins to XXX the complainant,
- XXX: During a XXX, the complainant XXX to the Harasser. The complainant believes the Harasser XXX with the Harasser. At this point, the complainant alleges that the Harasser acted inappropriately by XXX. Also, during XXX, the Harasser stated that XXX for the complainant, XXX that he was (XXX to end of sentence),³
- XXX: The Harasser (XXX to end of sentence).

Due to the XXX, there were no classes the XXX or the following XXX. On XXX, the first school day after LC students and staff returned from the XXX, the HR Director and Dean interviewed the Harasser about the complainant's allegations. The Harasser denied the allegations and also denied that he XXX with the complainant, but neither the HR Director nor the Dean believed him. The HR Director reminded the Harasser of LC's XXX policy.

The HR Director interviewed eight additional witnesses. According to the HR Director, two of the additional witnesses provided inconclusive information, two provided information supporting the Harasser's denials, and four witnesses provided information supporting the complainant's allegations. As part of OCR's investigation, this agency reviewed LC's investigation to assess its sufficiency.

The HR Director felt the statements from the Harasser denying the allegations were not credible. Additionally, the statements from the witnesses who corroborated the Harasser's denial were discounted. The HR Director felt the witnesses who provided information corroborating the allegations against the Harasser were more credible than those witnesses who provided information supporting the Harasser's denials. First, several of the individuals who corroborated the complainant's allegations stated that the Harasser had acted in a similar manner with them. The second reason the HR Director believed the witnesses who corroborated the complainant's allegations is that the body language of those individuals as well as their forthrightness led the HR Director to conclude that the statements from those individuals were truthful. Based on the

³ OCR is including this information because it was part of the list of allegations raised by the complainant summarizing what he believed was sexually harassing conduct by the Harasser. However, OCR makes no finding that it has XXX and only considered events that XXX when analyzing the complainant's sexual harassment claim.

information summarized above, the HR Director made the determination that the Harasser violated LC's Sexual Harassment Policy by XXX with the complainant and XXX. The HR Director also determined that the Harasser XXX to try to coerce and intimidate the complainant.

On XXX, approximately two weeks after the complainant first notified LC of his allegations, the HR Director completed her investigation and provided her recommendation to the President of LC that the Harasser had violated LC's Sexual Harassment Policy. On XXX, the HR Director met with the Harasser and told him his options were to have the XXX the investigation and determine whether to XXX or he XXX. The Harasser chose XXX and the HR Director went with the Harasser while he XXX. During the investigation, the HR Director kept both the complainant and the Harasser up-to-date on the status of the investigation. However, OCR's investigation did not reveal that the complainant was notified, in writing, of the outcome of LC's investigation of his complaint of sexual harassment. Based on a review of information obtained through the HR Director's investigation of the complainant's allegations of sexual harassment, OCR determined that LC's investigation and conclusions reached were a thorough and impartial investigation of the complainant's allegations.

1. Sexual Harassment

To determine if the corroborated incidents of sexual harassment that occurred in XXX were sufficiently severe, pervasive or persistent to limit or interfere with an individual's ability to participate in or benefit from the school's programs, OCR examined the incidents that occurred in XXX from both a subjective and objective perspective. It is the totality of the circumstances in which the behavior occurs that is critical to determine whether a hostile environment exists. Some of the factors OCR will consider are the type, duration, and frequency of the harassing conduct as well as the identity of and relationship between the alleged harasser and the accuser.

In this case, the complainant stated that he ended up XXX and avoided the Harasser as much as possible because he felt very uncomfortable around the Harasser. Also, the complainant (XXX to end of sentence). OCR's investigation shows that the Harasser made statements in XXX over several months indicating that he was XXX to the complainant and wanted XXX with him, tried to XXX the complainant in XXX after he indicated that he XXX with the Harasser, and XXX the complainant on several occasions. The Harasser was a XXX and also XXX as the complainant's a XXX. This kind of behavior is more likely to create a hostile environment due to the XXX by the Harasser as one of the XXX. Lyon College is a small school with approximately 600 students. Due to the small size of LC, fewer incidents can have a greater impact. Several of the acts committed by the Harasser on LC's campus occurred in public and were, therefore, more humiliating to the complainant. LC's investigation also uncovered several similar acts committed by the Harasser towards other students at LC.

OCR's review of LC's investigation shows that the Harasser was in a XXX over the complainant, made statements over several months on the LC campus indicating that he was XXX at LC which corroborated the complainant's allegations. Under the totality of the circumstances above, the corroborated incidents of sexual harassment were sufficiently severe, pervasive or persistent to limit or interfere with the complainant's ability to participate in or benefit from the school's programs.

- c. Whether the school has taken immediate and appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects*

If a recipient determines that sexual harassment occurred, it should take reasonable, timely, age-appropriate, and effective correction action. If a recipient knows or reasonably should know about the harassment, it has a responsibility to take immediate effective action to end the harassment, prevent its recurrence and address its effects. These steps should be reasonable, timely, age-appropriate, and effective. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment. Steps should also be taken to eliminate any hostile environment that has been created. A recipient should take steps to prevent further harassment and prevent any retaliation against the student who filed the complaint or provided information as witnesses. Some examples of remedies include: ensuring the complainant and alleged perpetrator do not attend the same classes, providing counseling services, and providing academic support services such as tutoring.

Because OCR determined that sexual harassment occurred, the next part of OCR's investigation was to determine whether LC took immediate and appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects.

- a. Steps to end harassment*

Within three days of the date the HR Director completed her investigation and notified LC's President of her findings, the HR Director met with the Harasser, notified him of his options, and he XXX. Because LC made the decision to XXX within three days of its conclusion that the Harasser had violated LC's Sexual Harassment Policy, OCR has determined that LC took immediate, timely and appropriate steps to end the harassment.

- b. Steps to prevent recurrence*

Because the Harasser resigned and did not return to campus, LC ensured that the harassment would not occur again.

- c. Steps to remedy its effects*

OCR also examined whether LC took any steps to remedy the effects of the sexual harassment. In order to remedy the effects of the harassment, LC offered the complainant the following remedial steps:

- The option to use LC's XXX,
- The option of taking online courses/using Skype and receive course credit towards a LC degree,
- Take the XXX required to complete his degree elsewhere at LC's expense and receive course credit towards a LC degree,

- Reimburse him for XXX related to the Harasser’s conduct.

The HR Director states that the complainant saw LC’s on XXX, but the HR Director did not pry into this matter so she let the complainant decide if he wanted to continue to pursue on XXX. Regarding the option to take online courses/use Skype, the complainant was allowed to take XXX and received credit for those XXX towards a LC degree. Additionally, he was permitted to take a XXX course using Skype which allowed him to participate in the class in real-time with the other students. With respect to XXX, the complainant signed up for one class at XXX and another class at XXX.

Regarding the remedial step at issue (reimbursement for XXX related to the Harasser’s conduct), the HR Director explained that in late XXX, she received a XXX for the complainant. LC provided OCR with a (XXX to end of sentence).

The HR Director explained that the only XXX which LC either did not pay for or reimburse the complainant for are XXX for which LC could not determine, through discussions with staff at the XXX, that XXX to any of the actions by the Harasser. The HR Director provided OCR with two specific examples. The first example was XXX. According to the HR Director, in XXX, the complainant contacted her, informed her that he had (XXX to end of sentence). Despite the extremely short notice, the HR Director contacted XXX and attempted to get more specific information about XXX. The HR Director was told that XXX to end of sentence. OCR conducted an internet search for XXX and confirmed that it states, (XXX to end of sentence). The HR Director told the complainant that LC could not cover the cost for him to XXX.

The HR Director stated that, over the next few weeks in XXX, she had several conversations with the complainant about XXX. When the HR Director followed up with XXX, she was told that XXX. As with XXX, the HR Director told the complainant that LC could (XXX to end of sentence). According to the HR Director, when she explained to the complainant that she was (XXX to end of sentence).

The HR Director informed OCR that she XXX to end of sentence. According to the HR Director, she was XXX to end of sentence. The HR Director stated that LC is currently still XXX with related to the Harasser’s actions.

OCR contacted the complainant on XXX to provide him with the opportunity to rebut the information from LC. Based on the complainant’s preference, OCR e-mailed him a copy of the rebuttal questions on XXX. On XXX, (XXX to end of sentence). The complainant confirmed that he was XXX. The (XXX to end of sentence). OCR did not receive any rebuttal information from the complainant XXX by the agreed upon date so OCR proceeded with the information it had obtained in its investigation.

Based on the information above, OCR has determined that LC took immediate and appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects. With respect to the specific remedy at issue, the decision by LC not to pay for the (XXX to end of sentence). Also, LC indicated that it was still willing to XXX. Thus, it appears that LC took immediate and

appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects.

Conclusion

The evidence obtained by OCR shows that: (1) LC's revised sexual harassment policy contains appropriate non-discrimination language, but LC's grievance procedures are missing certain information; (2) LC appropriately investigated the complainant's allegations of sexual harassment and determined sexual harassment occurred; and (3) LC took immediate and appropriate corrective action responsive to the sexual harassment, including effective actions to end the harassment, prevent its recurrence and, as appropriate, remedy its effects.

On March 9, 2015, LC voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve the compliance issues identified in this investigation and provided OCR with an updated version of the Agreement on March 24, 2015 with corrected completion dates.⁴ OCR has determined that the Agreement submitted by LC, when fully implemented, will resolve this issue.

OCR will monitor the implementation of the Agreement by LC to determine whether the commitments made by LC have been implemented consistent with the terms of the Agreement. Although verification of the remedial actions taken by LC can be accomplished by a review of reports and other documentation provided by LC, in some instances, a future monitoring site visit may be required to verify actions taken by LC.

This concludes OCR's investigation of the complaint and should not be interpreted to address LC'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 file a private suit in federal court whether or not OCR finds a violation.

Please be advised that LC 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 other related correspondence and records upon request. In the event we receive 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 privacy.

⁴ Throughout this letter, when OCR uses the term "Agreement" this agency is referring to the revised Agreement signed on March 24, 2015.

If you have any questions, please feel free to contact Richard J. Cho, the attorney-investigator, by telephone at (214) 661-9631 or Paul E. Coxe at (214) 661-9600.

Sincerely,

Taylor D. August
Regional Director
Office for Civil Rights
Dallas Office

Attachment