



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

**VIA MAIL**

John L. Crain, President  
Southeastern Louisiana University  
Box 10784  
Hammond, LA 70402

Re: OCR Complaint No. 06-15-2091

Dear Dr. Crain:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its processing of the above-referenced complaint. The complaint was filed against Southeastern Louisiana University (SELU or University), in Hammond, Louisiana. The complainant alleged that the University discriminated against her on the basis of sex (female).

OCR is responsible for determining whether entities 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 of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, *et seq.*, and its implementing regulations at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex. Because the University is a recipient of Federal financial assistance from the Department, OCR has jurisdictional authority to process this complaint for resolution under Title IX.

Based on the complainant's allegations, OCR opened for investigation the following legal issues:

1. Whether the SELU excluded the complainant from the School of Nursing program on the basis of her XX—phrases redacted—XX, in violation of Title IX and its implementing regulation, at 34 C.F.R. § XXXX; and
2. Whether the SELU failed to designate a responsible employee to investigate the complainant's filed grievance in a prompt and equitable manner, utilizing established grievance procedures that provide a prompt and equitable resolution of student complaints alleging any action prohibited by Title IX, in violation of Title IX and its implementing regulation, at 34 C.F.R. § 106.8.

During its investigation, OCR reviewed information provided by the University and the complainant. OCR also conducted interviews with relevant witnesses, including University personnel and the complainant.

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

Prior to the completion of OCR's investigation as to Issue 1, the University informed OCR that it was interested in resolving the complaint allegation. Section 302 of OCR's *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegation. The provisions of the resulting voluntary resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation and will be consistent with applicable regulations. OCR approved the University's request to resolve Issue 1 prior to the conclusion of the investigation.

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 it is more likely than not that unlawful discrimination or retaliation occurred). Based on OCR's careful review and analysis of the information obtained, we have determined that there is sufficient evidence to support a finding of noncompliance with Title IX as to Issue 2. The basis for this determination regarding Issue 2 is set forth below.

I. Legal Standard:

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires that a recipient designate at least one employee to coordinate its responsibilities to comply with and carry out its responsibilities under that law. The recipient is further required, by the Title IX implementing regulation at 34 C.F.R. § 106.9(a), to notify all students and employees of the name (or title), office address, telephone number, and email address of the designated employee(s).

The regulation implementing Title IX, at 34 C.F.R. § 106.9, requires that recipients 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 its education programs or activities and that it is required by Title IX not to discriminate in such a manner. Such notification shall state at least that the requirement not to discriminate in the education program or activity extends to employment. The notice must also state that questions regarding Title IX may be referred to the recipient's Title IX coordinator or to OCR.

The Title IX regulation, at 34 C.F.R. § 106.8(b), also requires recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title IX.

OCR evaluates on a case-by-case basis whether the resolution of complaints is prompt and equitable. OCR has noted that, based on its experience in typical cases, there is usually a 60-calendar day timeframe for investigations. Whether OCR considers an investigation to be prompt as required by Title IX will vary depending on the complexity of the investigation and the severity and extent of the alleged conduct. OCR recognizes that the investigation process may take longer if there is a parallel criminal investigation or if it occurs partially during school breaks.

In evaluating whether a recipient’s grievance procedures are prompt and equitable, OCR reviews all aspects of a recipient’s policies and practices, including the following elements that are critical to achieve compliance with Title IX\*:

1. notice to students and employees of the procedures, including where complaints may be filed;
2. application of the procedures to complaints alleging discrimination and harassment carried out by employees, other students, or third parties;
3. provision for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence;
4. designated and reasonably prompt timeframes for the major stages of the complaint process;
5. notice to both parties of the outcome of the complaint and any appeal; and
6. assurance that the recipient will take steps to prevent recurrence of any sex discrimination or harassment found to have occurred and to correct its discriminatory effects on the complainant and others, if appropriate.

## II. Findings of Fact:

During the XXXX XXXX semester, the complainant was a student at the University’s School of Nursing. The parties do not dispute that the complainant XX—to end of sentence redacted—XX. OCR reviewed documentation showing that, in consultation with her professor and the XXXX XXXX (XXXX XXXX), the complainant decided to XX—to end of sentence redacted—XX. The complainant also XX—to end of sentence redacted—XX.

XX—paragraph redacted—XX

XX—paragraph redacted—XX

The complainant then sent a letter to the University’s President, alleging that her XXXX violated Title IX’s prohibition of XXXX discrimination. The complainant stated during an interview with OCR that she sent the same letter to the XXXX XXXX XXXX XXXX XXXX XXXX, who never responded. The University’s President referred her letter to the University’s Title IX Coordinator for investigation. The Title IX Coordinator’s official title was “EEO/ADA Compliance Officer.” According to the report that the Title IX Coordinator produced at the conclusion of his investigation into the complainant’s allegations, he understood that the complainant was alleging discrimination based on her XXXX, in violation of Title IX. On XXXX XXXX, XXXX, the Title IX Coordinator emailed the complainant and stated, “If there is

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\* This list of critical elements does not necessarily include all items that grievance procedures must include to comply with Title IX. OCR focuses on these critical elements in this letter for the purpose of brevity.

any additional information that you need to provide before I begin my investigation please forward that to me at this email account.” The complainant replied with an email forwarding the documents she submitted to the XXXX XXXX XXXX XXXX and correspondence with her professors.

The complainant stated during an interview with OCR that the Title IX Coordinator did not interview her as part of the investigation, and the Title IX Coordinator stated during an interview with OCR that he did not meet with her. The Title IX Coordinator stated that he usually emails complainants asking if they would like to meet with him, but he could not find such an email to the complainant in his records. He stated that he interviewed the XXXX XXXX XXXX XXXX XXXX XXXX, the XXXX XXXX, and another faculty member who was involved in the decision to XX—to end of sentence redacted—XX. The Title IX Coordinator issued written notice of his investigatory findings to the complainant on XXXX XXXX, XXXX, concluding that there was insufficient evidence to substantiate a finding of XXXX discrimination.

The School of Nursing’s Handbook from the relevant time period directed students to “follow the appropriate university policy” “[f]or situations related to sexual harassment, ADA issues, or EEOC issues.” OCR reviewed two University grievance policies governing complaints of sex discrimination: the “Gender Discrimination Policy” that appeared in the University’s Student Handbook and a standalone “Harassment & Discrimination Policy.” The two policies set forth differing procedures for handling complaints.

In an interview with OCR, the Title IX Coordinator explained that he uses the procedures in the Harassment & Discrimination Policy when conducting investigations regarding sex discrimination and used that policy at the time of the complainant’s complaint, to the extent that the two policies conflicted. The University has since revised the Harassment & Discrimination Policy, but the Gender Discrimination Policy that appears in the 2016-2017 Student Handbook is identical to the Gender Discrimination Policy that appeared in the 2013-2014 Student Handbook. The University also now has a Sexual Misconduct Policy and Procedure and prohibits sex discrimination and harassment through its Student Code of Conduct; each of these policies contains a separate set of complaint procedures. As discussed in greater detail below, the circumstances under which each policy applies is not clear from the face of the previous or current policies.

### III. Analysis:

#### *A. Designation of Title IX Coordinator & Notification of Title IX Coordinator and Contact Information*

According to OCR’s interview of the Title IX Coordinator, the University had designated him as its Title IX Coordinator at the time of the complainant’s grievance. At that time, the Gender Discrimination Policy provided, “Inquiries regarding compliance with Title IX may be directed to EEO/ADA Compliance Officer,” but it did not provide that individual’s contact information. The Harassment & Discrimination Policy also referred to the “EEO Compliance Officer” but did not provide his contact information.

The Title IX Coordinator indicated during an interview with OCR that the University publishes

his name and contact information in the Student Handbook. However, OCR's review of the Handbook in effect at the time of the complainant's grievance revealed that the Handbook did not include the Title IX's Coordinator's contact information, although the 2016-2017 Student Handbook includes his name, office address, telephone number, and email address. The Title IX Coordinator also stated that his name and contact information are on the University's website. The University's website currently includes the Title IX Coordinator's name, office address, telephone number, and email address as part of the Harassment & Discrimination Policy at [www.southeastern.edu/resources/policies/policy\\_detail/harass\\_discriminate.html](http://www.southeastern.edu/resources/policies/policy_detail/harass_discriminate.html). The same information appears on the University's "University Disclosures" webpage at [www.southeastern.edu/resources/policies/unive\\_disc/](http://www.southeastern.edu/resources/policies/unive_disc/). The Title IX Coordinator also indicated that his name and contact information were available on the University Police's webpage, but that webpage ([www.southeastern.edu/admin/police/victims\\_soc/index.html](http://www.southeastern.edu/admin/police/victims_soc/index.html)) includes only his title and telephone number. OCR was unable to verify whether the University's website included the Title IX Coordinator's name (or title), office address, telephone number, or email address at the time of the complainant's grievance.

The weight of the evidence indicates that the University designated a Title IX Coordinator, both at the time of the complainant's grievance and today. In light of OCR's inability to view previous versions on the University's website, OCR lacks sufficient evidence to conclude that it is more likely than not that the University did not notify all students and employees of the name (or title), office address, telephone number, and email address of the designated employee at the time of the complainant's grievance. OCR verified that the University does so today via its website and Student Handbook. OCR therefore cannot find by a preponderance of the evidence that the University violated Title IX by not notifying students and employees of the Title IX Coordinator's name (or title) and contact information at the time of the complainant's grievance or today.

#### *B. Notice of Nondiscrimination*

In response to OCR's request for a copy of the University's Title IX notice of nondiscrimination, the University directed OCR to its Student Handbook and its Harassment & Discrimination Policy. The Gender Discrimination Policy in the Student Handbook included the following statement at the time of the complainant's grievance:

Southeastern Louisiana University complies with the provisions of Title VI and [sic] of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972, which designates that no person in the United States shall, on the basis of color, gender, creed or national origin, be excluded from participating in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal assistance.

University policies affecting students will be administered in a non-discriminatory manner. Students will not be subjected to discrimination on the basis of gender with regard to admission; recruitment; housing and other facilities; access to course offerings; counseling and use of appraisal and counseling materials; financial assistance; employment assistance; health and insurance benefits and services; marital and parental status; athletics; and educational programs and

activities.

Inquiries regarding compliance with Title IX may be directed to EEO/ADA Compliance Officer or the Director of the Office for Civil Rights, Department of Health, Education and Welfare.

The current version of the Gender Discrimination Policy includes the same statement.

This notice of nondiscrimination is directed to students and references admission. It contains no reference to employees or employment, beyond referencing “employment assistance.” As explained above, at a minimum, the notice of nondiscrimination must state that the requirement not to discriminate in the education program or activity extends to employment. This notice does not comply with that requirement. This notice otherwise complies with Title IX by stating that Title IX prohibits discrimination based on sex and directing individuals with questions to the EEO/ADA Compliance Officer or OCR, although it misidentifies OCR as part of the “Department of Health, Education and Welfare” rather than the U.S. Department of Education.

The Harassment & Discrimination Policy in effect at the time of the Student’s grievance contained the following statement:

Southeastern Louisiana University is committed to maintaining an environment free from any type of harassment and/or discrimination which is illegal and which will not be tolerated. In furtherance of that commitment, this policy forbids harassment and discrimination of any kind by or against any applicant, employee, student, or any other individual on the basis of race, color, sex, age, religion, national origin, citizenship, disability, sexual orientation, genetic information, retirement or veteran status.

The current version of the statement is identical, except that it omits “citizenship” as a protected basis, replaces “sex” with “gender,” and amends “any other individual” to “any other individual/group of individuals.” The current version of the statement also explains, “This policy is part of our commitment to comply with the requirements and objectives set forth by . . . Section 901 of Title IX of the Educational Amendments of 1972.” Neither the previous nor the current Harassment & Discrimination Policy references OCR, but both reference the EEO Compliance Officer as a point of contact.

Both versions of the notice of nondiscrimination within the Harassment & Discrimination Policy are directed at applicants, employees, students, and other individuals. Both notices prohibit discrimination based on sex, but the notice in effect at the time of the complainant’s grievance did not reference Title IX. As explained above, the notice of nondiscrimination must state that questions regarding Title IX may be referred to the recipient’s Title IX coordinator or to OCR. Although both the older and the current policy reference the Title IX Coordinator (also known as the EEO Compliance Officer) as a contact person, neither complies with the requirement of referencing OCR.

In sum, neither notice of nondiscrimination – either currently or at the time of the complainant’s grievance – complies with the requirements of Title IX. The notice within the Student Handbook

fails to specify that the requirement not to discriminate in the education program or activity extends to employment. The notice within the Harassment & Discrimination Policy failed to reference Title IX at the time of the student's grievance, although it currently does so. Finally, both the current and earlier notice within the Harassment & Discrimination Policy fail to refer individuals with questions to OCR.

### *C. Grievance Procedures*

As explained above, in evaluating whether a recipient's grievance procedures are prompt and equitable, OCR reviews all aspects of a recipient's policies and practices. OCR's review of the six elements that are critical to achieve compliance with Title IX and additional considerations are outlined below. As the Title IX Coordinator indicated that he utilizes the grievance procedures within the Harassment & Discrimination Policy to the extent that policy conflicts with the Gender Discrimination Policy, OCR focused on the Harassment & Discrimination Policy during its review.

#### 1. Notice to students and employees of the procedures, including where complaints may be filed

The Harassment & Discrimination Policy in effect at the time of the complainant's grievance provides the following information regarding where to file complaints:

Individuals may report [harassment or discrimination] to any of the following individuals: his/her supervisor, the Human Resources Director, the Equal Employment Opportunity Compliance Officer, the appropriate Department Head, the appropriate Dean, the Director of the University Health Center, or the Director of the University Counseling Center. Any official receiving a complaint should notify the EEO to ensure that follow-up action is taken. The EEO Compliance Office will serve as a clearinghouse for all such actions.

The policy set forth very minimal investigation procedures, which are discussed in greater detail below.

According to the Title IX Coordinator, the University distributed the Harassment & Discrimination Policy to all employees but did not distribute it to students unless they also worked for the University. He stated that the policy was also available online. Although the current Harassment & Discrimination Policy is available online, OCR was unable to confirm that it was available online at the time of the complainant's grievance.

The current Harassment & Discrimination Policy states, "Written complaints of discrimination/harassment should be submitted to the University's Compliance Officer." It also provides, "If a complaint of unlawful discrimination/harassment is against the Compliance Officer, the complainant shall complain directly to the University President. Complaints of unlawful discrimination/harassment against the University President shall be made directly to the University of Louisiana System Compliance Officer." The policy also sets forth both formal and informal complaint processes, which OCR analyzes below.

OCR has concluded that the weight of the evidence indicates that the University notified students and employees of its grievance procedures, including where complaints may be filed, through the Harassment & Discrimination Policy, both at the time of the complainant's grievance and currently. However, OCR also notes that, although the University notifies students and employees of its grievance procedures, it is also notifying students of the conflicting Gender Discrimination Policy – which contains procedures that the University does not follow – via the Student Handbook, making it difficult for them to ascertain the University's actual grievance process.

2. Application of the procedures to complaints alleging discrimination and harassment carried out by employees, other students, or third parties

The Harassment & Discrimination Policy in effect at the time of the complainant's grievance provided,

Following an appropriate investigation and subject to the procedures which are part of the policies governing the relevant type of appointment at/relationship with the University, *the faculty, staff, student, or other individual* may be subject to sanctions, including reprimand, probation, suspension, demotion, reassignment, termination of employment, termination of contractual relationship and/or expulsion.

Accordingly, by its terms, the policy applied to complaints alleging discrimination and harassment carried out by employees, other students, and third parties.

The current Harassment & Discrimination Policy does not specify that it applies to complaints alleging discrimination and harassment carried out by employees, other students, or third parties. The policy states, “[I]f a faculty or staff member is found in violation of the policy, that individual may be subject to disciplinary action.” It also explains, “This policy does not apply if a student/s feels as though they are a victim of sexual harassment,” and directs students to the University's Sexual Misconduct Policy under those circumstances. The current Harassment & Discrimination Policy goes on to explain, “All other cases of sexual harassment are covered under this policy,” meaning the Harassment & Discrimination Policy, but it does not clarify whether the policy covers all cases of sex discrimination as well.

During an interview with OCR, the Title IX Coordinator stated that discrimination and harassment that a student perpetrates is addressed pursuant to the Student Handbook. He explained that the Harassment & Discrimination Policy governs discrimination and harassment committed by everyone except students, including employees and third parties.

The Student Code of Conduct contained within the 2016-2017 Student Handbook defines “sexual misconduct” to include “sexual harassment, abuse, assault; and/or any form of sex discrimination prohibited by Title IX.” The Student Code of Conduct contains complaint procedures governing complaints of misconduct against a student. The University also has a Sexual Misconduct Policy and Procedure (Sexual Misconduct Policy) on its website (at [www.southeastern.edu/resources/policies/assets/sexual\\_misconduct.pdf](http://www.southeastern.edu/resources/policies/assets/sexual_misconduct.pdf)) and in the current Student Handbook. That policy contains differing procedures from the Code of Conduct and the



following different definition of “sexual misconduct”: “a sexual act or contact of a sexual nature that occurs, regardless of personal relationship, without the consent of the other person(s), or that occurs when the person(s) is unable to give consent or whose consent is coerced or obtained in a fraudulent manner.” The Sexual Misconduct Policy states that it “applies to all University employees, students, and third parties.” In short, the evidence that OCR gathered suggests that the University’s differing policies currently apply in the following ways, although the interrelationship between the policies is very unclear: (1) the Harassment & Discrimination Policy governs complaints of sex discrimination and harassment against employees and, according to the Title IX Coordinator, third parties, unless the Sexual Misconduct Policy applies, (2) the Student Code of Conduct governs complaints of sex discrimination against students and complaints of sexual harassment against students that do not fall within the ambit of the Sexual Misconduct Policy, and (3) the Sexual Misconduct Policy governs complaints of sexual violence.

OCR has concluded that the weight of the evidence indicates that the Harassment & Discrimination Policy applied to complaints alleging discrimination and harassment carried out by employees, other students, or third parties at the time of the complainant’s grievance. The weight of the evidence further indicates that the University’s current policies, in combination, also apply to complaints of discrimination and harassment carried out by employees, other students, or third parties – although it may be very difficult for members of the University community to parse out which of the differing policies applies under which circumstances, especially since the current Harassment & Discrimination Policy does not state on its face that it applies to actions by third parties and the Student Handbook includes a Gender Discrimination Policy that does not seem to apply under any circumstances.

3. Provision for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence

The Harassment & Discrimination Policy in effect at the time of the complainant’s grievance set forth the following procedures for the investigation of complaints:

Whenever a report of conduct is received which alleges harassment and/or discrimination the EEO Compliance Officer shall conduct a prompt investigation to gather available facts and to determine whether or not prohibited conduct has occurred.

Although the procedure provided that the EEO Compliance Officer would “gather available facts,” it did not specify that both the complainant and respondent would have the opportunity to present witnesses and other evidence.

The weight of the evidence indicates that the Title IX Coordinator did not interview the complainant as part of his investigation into her complaint, as the complainant stated that he did not interview her and the Title IX Coordinator confirmed that fact. The Title IX Coordinator also could not locate an email inviting her to be interviewed. However, the evidence that OCR reviewed suggests that the Title IX Coordinator did gather other evidence from the complainant, and the Title IX Coordinator stated during his interview with OCR that he gathered evidence from the School of Nursing.

The current Harassment & Discrimination Policy includes a two-level “Formal Complaint Process.” The policy states that, at Level 1, “[t]he Compliance Officer will either conduct an investigation or authorize an investigation.” However, the policy includes no information about what that investigation entails or whether both the complainant and the respondent have the opportunity to present witnesses and other evidence. The Title IX Coordinator stated during his interview with OCR that it is his practice to interview witnesses and collect other evidence as part of the investigation process.

The current Harassment & Discrimination Policy includes more detail about the investigatory procedures at Level 2. At Level 2, a group of between three and five members of the University’s Equal Employment Opportunity (EEO) Advisory Committee reviews the Level 1 findings. The policy specifies that, prior to the Committee’s review, the University’s President must appoint a trained investigator who must complete the following steps:

1. Review and investigate the Level 1 complaint decision;
2. Collect and clarify additional available facts about the alleged incident;
3. Meet with the complainant/complainants and the accused individual, separately, if appropriate.
4. The trained investigator will provide a report to the EEO Advisory Committee.

In sum, the weight of the evidence indicates that the Harassment & Discrimination Policy in effect at the time of the complainant’s grievance did not provide for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and the respondent to present witnesses and other evidence. OCR has also concluded that the complainant in fact did not have the opportunity to present witnesses, including the chance to serve as her own witness.

The current Harassment & Discrimination Policy does not include any procedures for Level 1 of the investigation. The policy sets forth more detailed procedures at Level 2 and requires the investigator to meet with the complainant and respondent and collect additional facts, but it does not specify that both parties have the opportunity to present witnesses and other evidence at Level 2. Accordingly, OCR has determined that neither the current policy nor the older policy provide for an adequate, reliable, and impartial investigation, and the University did not conduct an adequate investigation of the complainant’s grievance.

4. Designated and reasonably prompt timeframes for the major stages of the complaint process

OCR’s review of the Harassment & Discrimination Policy in effect at the time of the complainant’s grievance revealed that it included no timelines for the major stages of the complaint process. The policy provided only that “the EEO Compliance Officer shall conduct a prompt investigation.” The evidence indicates that the Title IX Coordinator did in fact conduct a prompt investigation of the complainant’s grievance, as she submitted her complaint on XXXX XXXX, XXXX, and the Title IX Coordinator provided written notice of the outcome of his investigation on XXXX XXXX, XXXX.

The current Harassment & Discrimination Policy sets forth timeframes for complaint submission. Specifically, the policy asks individuals to submit their complaints within 10 business days of the alleged incident but states that missing the deadline will not preclude an investigation. The policy requires individuals to submit Level 2 appeals within 10 business days of their receipt of the Level 1 complaint determination. The policy does not designate any other timeframes for the major stages of the complaint process, beyond stating that the University “will issue a written summary of the outcome of the investigation within a reasonable time.” The Title IX Coordinator confirmed during an interview with OCR that the policy includes deadlines that apply to complainants but otherwise mandates only that the University complete the investigation within a reasonable time.

Accordingly, OCR has concluded that neither the older nor the current Harassment & Discrimination Policy contains designated and reasonably prompt timeframes for the major stages of the complaint process, although the evidence indicates that the Title IX Coordinator in fact completed his investigation of the complainant’s grievance in a prompt manner.

5. Notice to both parties of the outcome of the complaint and any appeal

The Harassment & Discrimination Policy in effect at the time of the complainant’s grievance did not provide for notice of any kind regarding the outcome of the complaint and any appeal. The current Harassment & Discrimination Policy includes the following procedure as part of Level 1 of the “Formal Complaint Process”:

The Compliance Officer . . . will issue a written summary of the outcome of the investigation within a reasonable timeframe. A copy of the Compliance Officer’s written summary of the investigation will be accessible to both parties.

The policy also states:

The complainant/complainants and the accused individual will be notified of the decisions at each level [of the complaint process]. The complainant/complainants will also be notified of all elements of the decision that directly relate to the complainant, involve general campus wide changes, or are otherwise required by state or federal law.

The Title IX Coordinator stated during his interview with OCR that it is his practice to issue written notice, and OCR reviewed an email to the complainant showing that the Title IX Coordinator issued written notice to the complainant in this matter. In sum, OCR has concluded that the current policy requires notice to both parties of the outcome of the complaint and any appeal, although the policy in effect at the time of the complainant’s grievance did not.

6. Assurance that the recipient will take steps to prevent recurrence of any sex discrimination or harassment found to have occurred and to correct its discriminatory effects on the complainant and others, if appropriate

The Harassment & Discrimination Policy in effect at the time of the complainant's grievance included the following statement assuring that the University would take steps to prevent the recurrence of discrimination and harassment and correct its discriminatory effects:

If an investigation confirms either that harassment and/or retaliation has occurred or that conduct in violation of the policy has occurred, immediate and appropriate action to stop any such conduct and reasonable steps to prevent any further harassment, discrimination, or retaliation shall be taken.

The current Harassment & Discrimination Policy does not include any similar assurance, beyond indicating that the University may discipline individuals who violate the policy. Accordingly, OCR has concluded that the older Harassment & Discrimination Policy contained assurance that the University would take steps to prevent recurrence of any discrimination or harassment found to have occurred and to correct its discriminatory effects on the complainant and others, but the current policy does not include such assurance.

#### IV. Conclusion:

In conclusion, OCR has approved the University's request to resolve Issue 1 prior to the conclusion of the investigation. With respect to Issue 2, OCR has determined that the University has designated a Title IX Coordinator and published his name (or title) and contact information in accordance with Title IX. However, OCR's investigation revealed that neither the University's notice of nondiscrimination nor its grievance procedures comply with the requirements of Title IX today and also did not do so at the time of the complainant's grievance. The University's investigation of the complainant's grievance also did not comply with Title IX's requirements.

The University submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the University's representative signed the Agreement on June 29, 2017. OCR has determined the provisions of the Agreement are aligned with the complaint allegations and appropriately resolves them. Further, OCR accepts the Agreement as an assurance the University will fulfill its obligations under Title IX with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. OCR will actively monitor the University's implementation of the Agreement. Please be advised that if the University fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

There are no further complaint allegations appropriate for resolution; therefore, OCR is closing the investigation of the above-referenced complaint as of the date of this letter. The complainant has been notified of this action. This letter is not intended, nor should it be construed to cover, any other matters may exist and are not specifically discussed herein.

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 the University 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.

Thank you for the cooperation extended to OCR in our efforts to resolve this complaint. If you have any questions regarding this letter, please contact Katherine Fearn, the attorney assigned to the matter, at (214) 661-9653 or [katherine.fearn@ed.gov](mailto:katherine.fearn@ed.gov), or the Team Leader, Melissa Huling Malonson, at (214) 661-9600.

Sincerely,

/s/

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