



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
KANSAS
MISSOURI
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April 4, 2018

Sent via email only to XXXXX.XXXXX@vatterott.edu

XXXXX XXXXX

Vatterott Educational Centers, Inc.
8580 Evans Avenue, Suite B
Berkeley, Missouri 63134

Re: Vatterott College
OCR Case Number: 07-17-2064

Dear XX. XXXXX:

On January 17, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the basis of sex by Vatterott College (College), XXXXX, XXXXX. This letter is to confirm that the College has voluntarily submitted a Resolution Agreement (Agreement) to resolve the complaint.

OCR investigated the following issues:

1. whether the College failed to respond promptly and equitably to complaints and reports of sexual harassment by the Complainant, and if so, whether the College perpetuated a sexually hostile environment, in violation of 34 C.F.R. §§ 106.8(b), 106.31(a) and (b);
2. whether the College failed to adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee Title IX complaints of sexual harassment, in violation of 34 C.F.R. § 106.8(b);
3. whether the College failed to designate a Title IX coordinator to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including any investigation of the Complainant's Title IX reports/complaints, in violation of 34 C.F.R. § 106.8(a); and,
4. whether the College failed to implement, publish, and distribute a notice of non-discrimination, in violation of 34 C.F.R. § 106.9.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code (U.S.C.) §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination based upon sex in any educational program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial

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

assistance from the Department, the College is subject to the provisions of Title IX.

To protect individuals' privacy, names of employees and other parties were not used in the letter.

Legal Standards

Sexually Hostile Environment and Duty to Respond Promptly and Equitably

The regulation implementing Title IX, at 34 C.F.R. § 106.31, 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 recipients of Federal financial assistance. 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 conduct of a sexual nature, including acts of sexual violence. A sexually hostile environment exists where a student is subjected to harassing conduct based on sex, and the harassment is sufficiently severe, pervasive, or persistent to interfere with or limit the ability of the student to participate in or receive the benefits, services, or opportunities provided by the recipient.

If a recipient knows or reasonably should know about sexual harassment, Title IX requires the recipient to respond in a prompt and equitable manner by taking immediate action to eliminate the harassment, prevent its recurrence, and address its effects. When responding to alleged sexual harassment, a recipient must take immediate and appropriate action to investigate or otherwise determine what occurred. The inquiry must be prompt, reliable, and impartial. Pending the outcome of a response to a report or an investigation of a complaint, Title IX requires a recipient to take steps to protect the parties as necessary, including taking interim measures. The recipient also should take steps to prevent any retaliation against the student who made the complaint and/or those who provided information.

Grievance Procedures and Notice of Nondiscrimination

The Title IX implementing regulation at 34 C.F.R. § 106.8(a) requires recipients 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 investigation of any complaint communicated to the recipient alleging any actions which would be prohibited by Title IX. The Title IX implementing regulation at 34 C.F.R. § 106.8(b) requires that a recipient adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX.

The Title IX implementing regulation at 34 C.F.R. § 106.9 requires each recipient to implement specific and continuing steps to notify applicants for admission and employment, 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 any educational program or activity which it operates, and that it is required by Title IX and its implementing regulation not to discriminate in

such a manner. The notice of nondiscrimination must include a statement that inquiries concerning Title IX may be referred to the Title IX Coordinator or to OCR (34 C.F.R. § 106.9(b)) and, the recipient must provide adequate notification of the contact information, including the name (or title), address, and phone number for the Title IX Coordinator (34 C.F.R. § 106.8).

Background

The College is part of a nation-wide system of private, post-secondary institutions with nineteen campuses in nine states. The College's corporate headquarters are located in Berkeley, Missouri, a suburb of St. Louis. The Title IX Coordinator is located in the corporate headquarters and is responsible for coordinating the College's response to reports and complaints of sexual harassment and sex-based discrimination arising from all campus locations. In addition to the corporate-based Title IX Coordinator, the campus director at each campus location serves as the Title IX Officer of his or her campus. The Title IX Officer is authorized to receive complaints of sexual harassment and sex-based discrimination at his or her respective campus and is responsible for informing the Title IX Coordinator of all reports and complaints received.

Paragraph redacted.

OCR reviewed the College's policies and procedures regarding sexual harassment, the College's notice of nondiscrimination, and contact information for the College's Title IX Coordinator. OCR also requested documentation detailing the actions taken to investigate Complainant's complaint of sexual harassment XXXXX XXXXX XXXXX. Sentence redacted. Sentence redacted.

On December 26, 2017, the Complainant submitted a statement to OCR in an email via the Complainant's Attorney. Sentence redacted. Sentence redacted. Sentence redacted.

Resolution

On December 19, 2017, the College requested to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*.¹

Prior to the completion of OCR's investigation into the complaint, the College submitted a signed Agreement (copy enclosed) on April 3, 2018, that, when fully implemented, will address the complaint allegations. Pursuant to the Agreement, the College will ensure that a consistent and complete notice of nondiscrimination is published and widely disseminated. The College will conduct a comprehensive review of all policies and procedures relating to sex discrimination and harassment to ensure that the policies and procedures contain all necessary elements and do not contain conflicting or contradictory information. The College will clearly delineate the scope of the Title IX Coordinator's duties and the XXXXX campus Title IX Officer's duties, to ensure that the Title IX Coordinator and the XXXXX campus Title IX Officer are properly performing their designated functions with respect to the College's Title IX policies and procedures. The

¹ The *Case Processing Manual* is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

College will ensure that the Title IX Coordinator and the XXXXX campus Title IX Officer have received appropriate training to effectively execute the responsibilities of their respective positions. The College will provide training to College personnel at the XXXXX campus, including administrators and instructors, on the prohibition against sexual harassment and relevant sections of the employee code of conduct prohibiting sexual misconduct; and, the responsibility to report incidents of possible harassment based on sex and the procedures for doing so. The College will provide training for students regarding sexual harassment. Training for both College personnel and students will identify the individual on-site at the College's XXXXX campus available to answer questions on and receive reports of sexual harassment. The College will develop a recordkeeping and data retention policy that ensures the maintenance of documentation of its responses to and investigations of sexual discrimination or harassment reports and complaints at the XXXXX campus. Finally, under the Agreement, if the Complainant enrolls in the College during the 2017-18 or 2018-19 school years, the College will provide written notice to the Complainant stating that the College will take any steps necessary to ensure that she is not subjected to harassment, including sex-based harassment, or a hostile environment on the basis of sex on College grounds and in College-sponsored activities. Please consult the Agreement for further details.

OCR considers the complaint allegations resolved effective the date of this letter and will monitor the College's implementation of the Agreement. When OCR concludes the College has fully implemented the terms of the Agreement, OCR will close the complaint. If the College fails to carry out the Agreement, OCR may resume its investigation.

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, please be advised that individual 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.

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.

If you have any questions, please contact XXXXX XXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXXX@ed.gov.

Sincerely,

Kelli Douglas
Supervisory Attorney

Enclosure