



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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DENVER, CO 80204-3582

REGION VIII  
ARIZONA  
COLORADO  
NEW MEXICO  
UTAH  
WYOMING

May 20, 2016

XXXXXXXXXXXX

President  
Central New Mexico Community College  
XXXXXXXXXXXX  
Albuquerque, XXXX

Re: Central New Mexico Community College  
Case Number: 08-14-2122

Dear XXXXXXXX:

On November 24, 2015, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint filed against the Central New Mexico Community College (College) alleging sex discrimination. The Complainant alleged that she was sexually harassed by an instructor at the College.

We are responsible for enforcing Title IX of the Education Amendments of 1972 and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in education programs and activities that receive Federal financial assistance from the Department. The College receives Federal financial assistance from the Department and is therefore subject to these laws and regulations.

OCR initiated an investigation of the Complainant's allegation. During the course of the investigation, we reviewed the College's internal investigation of the same allegation. Our review determined that the College's response to the complaint of sexual harassment included an investigation of all allegations, offered the same remedies that would have been obtained if OCR were to find a violation, and there was a comparable resolution process under comparable legal standards. Accordingly, we are administratively closing this allegation. In addition, during the course of the investigation, the College signed an Agreement which, when fully implemented, will address a concern regarding the College's designation of a Title IX coordinator and sexual harassment policies and procedures.

### **Sexual Harassment Complaint**

The Complainant alleged that she was sexually harassed by a College instructor. She filed her OCR complaint prior to the College's completion of its internal complaint. The College completed its internal investigation on XXX X, 2015.

Section 110(a)(2) of our Case Processing Manual requires that we close a complaint when the same complaint allegations have been filed by the complainant against the same recipient with

another federal, state, or local agency or through a recipient's internal grievance and, for resolved complaint allegations, the resolution meets OCR regulatory standards.

During our investigation of the allegation, the College provided documentation of the investigation it conducted in response to the sexual harassment complaint that the Complainant filed with the College on XXX X, 2015. We reviewed the College's documentation and confirmed that the same allegation raised by the Complainant with OCR was investigated by the College. We examined the College's investigation and resolution of the Complainant's complaint. After carefully reviewing the College's investigative report, we find that the Complainant's allegations of sexual harassment were investigated under a comparable resolution process, comparable legal standards were applied, and the remedies obtained were the same as the remedy that would be obtained if OCR were to find a violation. Our basis for this conclusion is set forth below.

The College's investigation involved XX witness interviews, including the instructor, several faculty members, and several students. Those interviewed corroborated several of the Complainant's sexual harassment allegations. The investigation concluded that the instructor violated the College's handbook, code of conduct, and workplace behavior policies. The investigator recommended that the College address the instructor's conduct through appropriate personnel actions. Prior to the completion of their investigation, the College spoke with the Complainant and offered her an option to move and finish her course work with another instructor XX XX XXXX XXXX. The College also initiated a withdraw status for the Complainant's grades XX XX XX XX XX XXX XX XX XX. The College met with the Complainant and addressed her financial concerns by allowing her to retake the XXX XXX course with tuition and fees waived the following semester. The Complainant accepted the fee waiver and enrolled into the course.

The College's investigation and response to the complaint of sexual harassment included an investigation of all allegations; the remedies obtained were the same as the remedy that would be obtained if OCR were to find a violation of the complaint; and there was a comparable resolution process under comparable legal standards. Therefore, pursuant to Section 110(a)(2) of our Case Processing Manual, we are dismissing this allegation effective the date of this letter.

### **Sexual Harassment Policies and Procedures**

During the investigation of this complaint, we identified potential compliance concerns that were not at issue in our review of the College's handling of the Complainant's internal complaint. The concerns identified are specific Title IX requirements that the College identify a Title IX coordinator and develop and implement procedures that ensure a prompt and equitable resolution to complaints of sexual harassment. Before OCR had sufficient evidence to make any findings, the College expressed an interest and willingness in resolving concerns regarding the College's Title IX coordinator and sexual harassment policies and procedures through a voluntary agreement with OCR. Pursuant to Section 302 of our Case Processing Manual, a complaint allegation may be resolved when, before the conclusion of an investigation, a recipient agrees to resolve the allegation and OCR has determined that the allegation is appropriate for resolution during the investigation. OCR has determined that this allegation is appropriate for a Section 302

Agreement. The College signed an Agreement which, when fully implemented, will resolve these concerns. OCR will monitor the implementation of the Agreement until all terms are fulfilled. The provisions of the Agreement are aligned with the identified potential compliance concerns and are consistent with the applicable regulations. A copy of the Resolution Agreement is enclosed.

We will monitor the College's implementation of the terms of the Agreement until all provisions have been satisfied. OCR has notified the Complainant that the College has entered into this Agreement, and we will provide the Complainant a copy of the Agreement. We will also update Complainant of monitoring activities related to this case.

This concludes our investigation of this complaint. This letter addresses only the allegations raised in this complaint and should not be interpreted as a determination of the College's compliance or noncompliance with Title IX, or any other federal law in any other respect. Accordingly, we are closing the investigation of the complaint effective the date of 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. Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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, personal information, which if released, could constitute an unwarranted invasion of privacy.

If you have any questions, you may contact XXX XXX, Equal Opportunity Specialist, at (XXX) XXX-XXXX, or by E-mail at XXXX.XXX@ed.gov.

Sincerely,

/s/

Sandra J. Roesti  
Supervisory General Attorney

Enclosure: Resolution Agreement