



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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June 18, 2018

Dr. Janine Davidson
President
Metropolitan State University
Campus Box 63
P.O. Box 173362
Denver, CO 8017-3362 (via email only at: Davidson@msu.edu)

Re: Metropolitan State University
OCR Case Numbers: 08-18-2064

Dear President Davidson:

We are writing to advise you of the resolution of the above-referenced complaint that was filed with our office against Metropolitan State University of Denver. On December 21, 2017, we received a complaint alleging that Metropolitan University (University) discriminated against the Complainant on the basis of sex and race. Specifically, the Complainant alleged that the University failed to investigate her complaint of harassment based on race, national origin, and sex.

We are responsible for enforcing Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and its implementing regulations at 34 C.F.R. Part 100 which prohibit discrimination on the basis of race, color or national origin, and Title IX of the Education Amendments of 1972, as amended, 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. The University receives Federal financial assistance from the Department, and is therefore subject to these laws and regulations. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Analysis

When analyzing a complaint allegation where the Complainant filed an internal grievance with the University, OCR will not conduct its own investigation; instead, OCR will review the results of the University's determination and decide whether the University provided a comparable resolution process under comparable legal standards.

In determining whether the University conducted an appropriate investigation, OCR determines: (1) Whether the University knew or should have known of the allegation[s] of race, national origin, and sexual harassment; (2) Whether the University took immediate and appropriate action

to investigate or otherwise determine what occurred. The specific steps in a University's investigation will vary depending upon the nature of the allegations. In all cases, however, the inquiry should be prompt, thorough and impartial, and (3) If harassment is found, OCR determines whether the University took reasonable, timely, and effective corrective action, including steps tailored to the specific situation.

(1) Did the University know or should have known of the allegation[s] of race, national origin, and sexual harassment?

The Complainant stated that she was harassed on the basis of race, national origin and gender by a co-worker in the language lab at the University where she was a work study student.

The Complainant indicated that she notified the work study supervisor in the lab of the Modern Language Department of repeated sexual harassment by a male work study student in early October 2017. The Complainant stated that she also complained on November 1, 2017 to the supervisor in the Modern Language Department. She indicated that after she and another female student shared similar stories, the supervisor had the two students write statements for her and then forwarded them as a complaint to the Equal Opportunity (EO) Office.

In response to the complaint from the supervisor, the Complainant told OCR that she was asked to meet and be interviewed by the Interim Director and Administrative Assistant with the EO Office. The Complainant stated that she met with the EO Office representatives on or about November 3, 2017.

A University has notice if a responsible employee "knew, or in the exercise of reasonable care should have known," about the harassment. A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate University officials, sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.

The University provided evidence demonstrating that the Complainant complained to administrators within the Department that she worked. The supervisor of the department asked her and the other affected student to write individual statements. The supervisor then forwarded the statements to the EO Office of the University. Individuals within the EO Office then interviewed the Complainant and the other alleged victim. Therefore, the University had actual notice of the harassment in this case.

During OCR's investigation into determining what action the University took after receiving notice of alleged harassment and before completion of this investigation, the University requested to enter into a Resolution Agreement with our office pursuant to Section 302 of our *Case Processing Manual*.

Attached to this letter is the Resolution Agreement signed by the University. When fully implemented, the Resolution Agreement will address the allegation in this case. OCR will monitor the implementation of the agreement.

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

Individuals filing a complaint or participating in our resolution process are protected from retaliation by Federal law.

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 follow up questions, please contact Virginia Wilson-Cobble, attorney advisor, assigned to this complaint, at (303) 844-4538, or by email at virginia.wilson-cobble@ed.gov. You also may contact me at (303) 844-5927.

Sincerely,

Thomas M. Rock
Supervisory General Attorney

Enclosure