



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IX
CALIFORNIA

March 14, 2017

Paul J. Fitzgerald, S.J., Ph.D
President
University of San Francisco
2130 Fulton Street
San Francisco, CA 94117-1080

Re: Case No. 09-15-6001
University of San Francisco

Dear President Fitzgerald:

This is to advise you of the resolution of the above-referenced compliance review that was initiated on September 3, 2015, by the U.S. Department of Education (Department), Office for Civil Rights (OCR) at the University of San Francisco (University). The compliance review addressed the following issues: Whether the University discriminates against female students by denying them an equal opportunity to participate in intercollegiate athletics, and whether the University discriminates against male or female students by not awarding athletic scholarships or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics.

OCR initiated this compliance review under 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 in programs and activities receiving financial assistance from the Department. The University is a recipient of financial assistance from the Department. Therefore, OCR had jurisdiction to investigate this matter under Title IX.

Legal Standards

The regulation implementing Title IX, at 34 C.F.R. § 106.41(a), specifically prohibits discrimination on the basis of sex in athletic programs offered by recipients of financial assistance from the Department. The regulation implementing Title IX, at 34 C.F.R. § 106.41(c), states that a recipient that operates or sponsors athletic teams must provide equal opportunity for members of both sexes.

In this review, OCR examined whether the University provides male and female students equal opportunities to participate in its intercollegiate athletics program by effectively accommodating their interests and abilities, in accordance with the regulation implementing Title IX, at 34 C.F.R. § 106.41(c)(1). The regulation states that in determining whether equal

athletic opportunities are provided for males and females, OCR considers whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes.

OCR also examined whether the University provides its athletes opportunities for financial assistance in proportion to the number of students of each sex participating in intercollegiate athletics. The provision of athletic scholarships or grants-in-aid is addressed in the regulation implementing Title IX, at 34 C.F.R. § 106.37(c), which states that “to the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in . . . intercollegiate athletics.”

During the course of the investigation, the University requested to resolve the issue areas under review by OCR. Prior to concluding the investigation of these issue areas, on March 10, 2017, the University signed the enclosed Resolution Agreement (Agreement), which when fully implemented, is intended to resolve the issues identified in this compliance review.

Background Information

The University is a private university located in San Francisco, California. At the start of this review, in fall semester 2015, the University enrolled 10,828 undergraduate and graduate students in all of its programs housed in four schools (Law, Management, Education, Nursing and Health Professions) and one college (Arts and Sciences).

According to its website, the University's athletics program competes in the National Collegiate Athletic Association (NCAA) Division I program and is a member of the ten school West Coast Conference (WCC). Two other post-secondary institutions, Santa Clara University and St. Mary's College, are also part of the WCC, and within 100 miles of the University.

A review of the WCC website shows that the WCC sponsors the following intercollegiate men's sports: baseball, basketball, cross country, golf, soccer and tennis. It sponsors the following intercollegiate women's sports: basketball, cross country, golf, beach volleyball, rowing, soccer, softball, tennis and volleyball. Eight of the ten WCC schools offer at least one softball team or rowing team for female athletes. The University does not offer either softball or rowing for its female athletes.

The University's women's athletics program started in 1976 with four intercollegiate women's teams: basketball, volleyball, tennis and softball. The University currently has the following intercollegiate women's teams: basketball, soccer, golf, volleyball, sand volleyball, tennis, track and cross country. It has the following intercollegiate men's teams: basketball, baseball, tennis, soccer, golf, track and cross-country.

Issue I: Whether the University discriminates against female students by denying them an equal opportunity to participate in intercollegiate athletics.

Facts – Three-Part Test for Accommodation of Interests and Abilities

The University provided information to OCR to show that since the beginning of its women's athletics program, it has added a women's program on average every five years. The eight existing women's programs are the culmination of the initial four programs and additional ones added over the last 40 years. The addition of female teams has been on the following schedule: 1978, 1985, 1990, 2005, 2013.

The University stated that although women's softball was added in 1976, it was later discontinued in 1989. According to the University, the softball program was eliminated due to the dysfunctional relationship between the athletes and the coaching staff, the waning interest in softball at the time and that softball was not in a conference. The University also stated that with the elimination of softball, there was an interest in women's golf, which was added in 1989.

In 2005, the University added women's track and field in response to significant interest from students and because the addition helps support the cross-country team. The last women's program, sand volleyball, was added in 2013. The University explained that the addition was due to interest from the women's volleyball team, and because the women's volleyball coaching staff had coached a beach volleyball club team.

The University reported that it has not added any men's teams since 1976 (though men's basketball was suspended in 1982 and reinstated in 1985). One coed team rifle was added in 1984; it was discontinued in 2004 or 2005.

The University stated that it did not have any formal policy or procedure for adding new intercollegiate sports or elevating current sport clubs to intercollegiate status. It stated that it had no record of any request for the addition or elevation of a sport. It did not provide any documentation of unsuccessful attempts to add female sports. The University further stated that it did not have surveys or questionnaires to assess the interests and abilities of students.

The University provided information on the intramural sport teams and club sport teams at the University. According to the University, in the 2014-15 school year, there were almost 1,300 students who participated in either intramural and/or club sports which included the following: basketball, dodgeball, flag football, indoor soccer, indoor kick ball, aikido, badminton, boxing, Brazilian jiu jitsu, capoeira, contemporary dance, cycling, equestrian, hip hop dance, judo, men's lacrosse, muay Thai, rifle, men's rugby, women's rugby, running, sailing, Shotokan, table tennis, taekwondo, swimming, ultimate frisbee, water polo, tennis, and volleyball.

The University stated that in the 2015-16 school year, there were 23 club sports teams with a total of 304 total participants (157 male students and 147 female students). Specifically,

there were three men's club sport teams, three women's club sports teams, and 17 coed club sports teams. At the same time, there were 17 intramural sports teams on campus, with a total of 752 participants (596 males and 156 females). Specifically, there were three men's intramural teams, one female intramural team, and 13 coed intramural teams.

In 2014-15, the enrollment at the University was 2,938 male undergraduates and 4,662 female undergraduates. Based on the 2014-15 intercollegiate athletic team rosters provided by the University, males students were provided 130 participation opportunities¹ (53.5%) and female students were provided with 113 participation opportunities (46.5%). The average female team size during this time period was 14. Thus, for exact proportionality between the male and female enrollment rate and their respective athletic participation, female students would need 206 athletic opportunities. Female students were provided with 113 athletic opportunities, which leaves a difference of 93 athletic opportunities that they were not provided.

In 2015-16 school year, the University had a total male undergraduate enrollment of 2,426 and a total female undergraduate enrollment of 3,972. Based on the 2015-16 intercollegiate athletic team rosters provided by the University, males students were provided 132 participation opportunities (52.2%) and female students were provided with 121 participation opportunities (47.8%). The average female team size during 2015-16 was 15. Thus, for exact proportionality between the male and female enrollment and their athletic participation, there would need to be 216 athletic opportunities for the female students. Female students were provided 121 opportunities, leaving a deficit of 95 opportunities.

Legal Standard – Three-Part Test for Accommodation of Interests and Abilities

OCR examined whether the University provides male and female students an equal opportunity to participate in its intercollegiate athletics program by effectively accommodating their interests and abilities, in accordance with 34 C.F.R. 106.41(c)(1). OCR considered whether the selection of sports and levels of competition at the University effectively accommodates the interests and abilities of both sexes.

OCR applies the following three-part test ("Three-Part Test") to assess whether an institution is providing equal participation opportunities for individuals of both sexes with respect to the selection of sports:

1. Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments; or
2. Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing

¹ In determining participation opportunities, OCR reviews the rosters of each sport to determine how many athletes participate in more than one sport. When an athlete participates in more than one sport, they are counted more than once. See *infra*, footnote 2.

practice of program expansion that is demonstrably responsive to the developing interests and abilities of that sex; or

3. Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a continuing practice of program expansion such as that cited above, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

If an institution meets any one part of the Three-Part Test, then OCR will determine that the institution provides each sex with equitable opportunities to participate. Each part of the Three-Part Test is an equally sufficient and separate method of complying with the Title IX regulatory requirement to provide nondiscriminatory athletic participation opportunities. If an institution meets any part of the Three-Part Test, OCR will determine that the institution is meeting this requirement.

Analysis – Three-Part Test for Accommodation of Interests and Abilities

Part One: Substantially Proportionate Participation Opportunities

Under Part One of the Three-Part Test, where an institution provides intercollegiate level participation opportunities for male and female students in numbers substantially proportionate to their respective full-time undergraduate enrollments, OCR will find that the institution is providing nondiscriminatory participation opportunities for individuals of both sexes. OCR will also consider opportunities to be substantially proportionate when the number of opportunities that would be required to achieve proportionality would not be sufficient to sustain a viable team; i.e., a team for which there is a sufficient number of interested and able students and enough available competition to sustain an intercollegiate team. When assessing viability, OCR may consider the average size of teams offered for the underrepresented sex, a number that might vary by institution.²

Analysis of Part One

OCR examined whether the University provides male and female students an equal opportunity to participate in its intercollegiate athletics program. The University asserted to OCR that it believed it satisfied Part One of the Three-Part Test and was therefore in compliance with Title IX with regard to this issue. OCR reviewed the University's total male and female undergraduate student enrollment with its athletics participation data for the 2014-15 and 2015-16 academic year.

² For the purposes of conducting interests and abilities calculations under the first part of the Three-Part Test, participants who participate on more than one team are counted in each sport. This is known as the "duplicated count." Athletes do not have to compete to be counted as participants. In addition, they do not need to be full-time enrolled students, if they otherwise meet the definition of participant.

In 2014-15, based on the University's reported data as analyzed above, 93 additional female participation opportunities would be needed to achieve exact proportionality, without cutting any athletic opportunities for the males. However, the legal standard is substantial proportionality. Based on the average female team size at the University, which was 14 in 2014-15, the University could add up to six average-size female intercollegiate teams to its athletic program in order to reach substantial proportionality.

In 2015-16, based on the University's reported data as analyzed above, 95 additional female participation opportunities would be needed to achieve exact proportionality, without cutting any athletic opportunities for the males. In 2015-16, the average female team size at the University was 15. Therefore, the University could add up to six average-size intercollegiate teams to its athletic program in order to reach substantial proportionality.

Based on this initial data review, OCR identified a deficiency because the University does not provide intercollegiate level participation opportunities for male and female students in numbers substantially proportionate to their enrollments, as required under Part One.

Part Two: History and Continuing Practice of Program Expansion

Under Part Two of the Three-Part Test, an institution may demonstrate compliance by showing that it has a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex. Part Two examines an institution's past and continuing remedial efforts to provide nondiscriminatory participation opportunities through program expansion.

(i) History

OCR considers the following factors, among others, as evidence indicating an institution's history of program expansion is demonstrably responsive to the developing interests and abilities of the underrepresented sex:

- A record of adding intercollegiate teams, or upgrading teams to intercollegiate status, for the underrepresented sex;
- A record of increasing the numbers of participants in intercollegiate athletics who are members of the underrepresented sex; and
- An affirmative response to requests by students or others for addition or elevation of sports.

(ii) Continuing Practice

OCR also considers the following factors, among others, as evidence that may indicate a continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex:

- The current implementation of a nondiscriminatory policy or procedure for requesting the addition of sports (including the elevation of club or intramural teams) and the effective communication of the policy or procedure to students; and
- The current implementation of a plan of program expansion that is responsive to developing interests and abilities.

Analysis of Part Two

(i) History

Under Part Two of the Three-Part Test, the University may demonstrate compliance by showing that it has a history and continuing practice of program expansion that is demonstrably responsive to the developing interests and abilities of the underrepresented sex – the female students. In this case, the University began its female athletic program in 1976 with four teams. Since then, the University added six female teams and eliminated one team. The University did not have records of any request for the addition or evaluation of sports and did not have documentation to show that it had responded to the interest and abilities of female students. The University added women's sand volleyball in 2013 but did not provide OCR with any documentation to demonstrate that it was responding to the interests and abilities of the female students. OCR notes that while eight of the ten WCC schools offer at least an intercollegiate softball team or rowing team for female athletes, the University offers neither of these teams. Moreover, from the data provided, there are significant gaps in time in between adding women's teams at the University. For example, even though the University added women's golf in 1989, there was a 15 year gap between that team's inception and the addition of women's track and field in 2005; there was another eight year gap before the University added women's sand volleyball in 2013. Thus, when looking at the totality of the circumstances, the extended amount of time in between each addition of a women's sport provides evidence of a deficiency with respect to the University's expansion of opportunities for the underrepresented sex.

(ii) Continuing Practice

The University does not have a policy or procedure or any survey instrument or assessment tool for students, coaches or others on campus to indicate their interest in, request the addition of an intercollegiate team, or the elevation of a club team to intercollegiate status. The University informed OCR that it does not have a plan of program expansion that is responsive to developing interests and abilities of the underrepresented sex.

Based on this initial data response, OCR identified a deficiency because the University has not demonstrated a history and continuing practice of program expansion that has been demonstrably responsive to the developing interests and abilities of females, as required to satisfy Part Two of the Three-Part Test.

Part Three: Full and Effective Accommodation of Interest and Abilities

In determining compliance with Part Three of the Three-Part Test, OCR determines whether, despite being unable to demonstrate substantial proportionality or a history and continuing practice of program expansion, an institution is nevertheless fully and effectively accommodating the interests and abilities of the underrepresented sex. In making this determination, OCR considers whether there is: (a) unmet interest in a particular sport; (b) sufficient ability to sustain a team in the sport, and (c) a reasonable expectation of competition for the team.

The OCR 1979 Intercollegiate Athletics Policy Interpretation (Policy Interpretation)³ provides that an institution may determine the athletic interests and abilities of students by nondiscriminatory methods of its choosing provided: the process takes into account the nationally increasing levels of women's interests and abilities; the methods of determining interest and ability do not disadvantage the members of the underrepresented sex; the methods of determining ability take into account team performance records; and, the methods are responsive to the expressed interests of students capable of intercollegiate competition who are members of an underrepresented sex.

In determining whether there is unmet interest and ability to support an intercollegiate team in a particular sport, OCR uses a broad range of indicators, such as whether the institution uses nondiscriminatory methods of assessment when determining athletic interests and abilities of students; whether a viable team for the underrepresented sex recently was eliminated; and the frequency of the institution's conducting assessments.

OCR also evaluates the interests of the underrepresented sex by examining indicators, such as requests by students and admitted students that a particular sport be added, requests for the elevation of an existing club sport to intercollegiate status, participation in club or intramural sports, results of interviews, surveys or questionnaires of students and admitted students regarding interest in particular sports, and the participation rate of admitted students in interscholastic sports and other sports leagues that operate in areas from which the institution draws its students.

Finally, OCR determines whether there is a reasonable expectation of intercollegiate competition for a particular sport in the institution's normal competitive region. In evaluating available competition, OCR will look at available competitive opportunities in the geographic area in which the institution's athletes primarily compete.

Analysis of Part Three

OCR analyzes this area by determining any unmet interest, sufficient ability, and the availability of competition in the normal competitive region. During OCR's investigation, the University did not provide any information from which it could identify any specific sports in

³ See *Title IX Intercollegiate Athletics Policy Interpretation*, 44 Fed. Reg. 71,413 (Dec. 11, 1979).

which there might be student interest. While the University provided information on the extensive club sports (17 coed club sport teams, three female club sport teams and three male club sport teams) and intramural teams (three men's intramural teams, three female intramural teams, and 13 coed intramural teams) on campus during the 2015-16 school year, the University has not assessed whether there are any interests in elevating these particular sports. OCR also observed that while the other universities in the WCC, including two within 100 miles of the University, offered women's softball and/or rowing, the University did not. Because eight of ten WCC programs offer women's softball and/or rowing, there would be sufficient competition in the University's athletic conference, the WCC, and the geographic area.

In order to comply with Part Three, the University must be able to demonstrate that it can identify the athletic interests and abilities of the underrepresented sex, and that it has taken action to fully and effectively accommodate those interests. Upon review of the initial University data, OCR identified a deficiency because the University did not know what the unmet interests and abilities for the underrepresented sex are, and cannot demonstrate a full and effective response.

However, prior to OCR completing its investigation of this issue, the University expressed an interest in voluntarily resolving it, and OCR agreed it was appropriate to do so.

Equivalent Levels of Competition

In addition, to the Three-Part Test, compliance is also assessed by examining whether the competitive schedules for men's and women's teams afford proportionally similar opportunities to compete. If an institution's athletics program equitably provides each sex with the level of competition reflective of their respective abilities, OCR will determine that the institution is effectively accommodating athletic interests and abilities.

The Policy Interpretation outlines two factors to assess whether the quality of competition provided to male and female athletes equally reflects their abilities:

- (1) Whether the competitive schedules for men's and women's teams, on a program-wide basis, afford proportionately similar numbers of male and female athletes equivalently advanced competitive opportunities; or,
- (2) Whether the institution can demonstrate a history and continuing practice of upgrading the competitive opportunities available to the historically disadvantaged sex as warranted by developing abilities among the athletes of that sex.

Analysis

In determining whether there are equivalent levels of competition, OCR examines whether the level of competition provided to the male and female athletes equally reflect their abilities. Here, the University is a member of the WCC. The WCC consists of ten participating

schools; the University is located in the San Francisco bay area where there are two other WCC schools within a 100 mile radius. The University indicated that its teams have generally competed against other Division I teams, including WCC teams.

The initial data gathered from the University thus far does not raise any concerns for OCR regarding the levels and quality of competition. All intercollegiate teams are provided with the highest caliber intercollegiate competition available – NCAA Division I competition.

Issue II: Whether the University discriminates against male or female athletes by not awarding athletic scholarships or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics.

Legal Standard – Athletic Financial Assistance (AFA)

The regulation implementing Title IX, at 34 C.F.R. § 106.37(c), provides that “[t]o the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in . . . intercollegiate athletics.”

In determining compliance with this provision, OCR examined whether the University made proportionately equal amounts of financial assistance (scholarship aid) available to the men's and women's athletics programs. OCR determines this by dividing the amounts of aid available for the members of each sex by the numbers of male and female participants in the athletics program and comparing the results.

An institution is considered to be in compliance if this comparison results in substantially equal amounts, or if a resulting disparity⁴ can be explained by adjustments to take into account legitimate, nondiscriminatory factors.⁵ If any unexplained disparity in the scholarship budget for athletes of either sex is one percent or less for the entire budget for athletic scholarships, there will be a strong presumption that such a disparity is reasonable and based on legitimate and nondiscriminatory factors. Conversely, there will be a strong presumption that an unexplained disparity of more than one percent is in violation of the regulation implementing Title IX. OCR evaluates each case in terms of its particular facts. For example, at those universities where 1% of the entire athletic scholarship budget is less than the value of one full scholarship, OCR will presume that a disparity of up to the value of one full scholarship is equitable and nondiscriminatory. Even if an institution consistently has

⁴ A "disparity" in awarding AFA refers to the difference between the aggregate amount of money athletes of one sex received in one year, and the amount they would have received if their share of the entire annual budget for athletic scholarships had been awarded in proportion to their participation rates.

⁵ Two possible nondiscriminatory factors that may explain differences in AFA awards are: the high costs of tuition for students for out-of-state and an institution may make reasonable professional decisions concerning the awards most appropriate for program development.

less than a 1% disparity, the presumption of compliance with Title IX might still be rebutted if, for example, there was direct evidence of discriminatory intent.

Facts – AFA

The University is a private institution and there is no difference between in-state and out-of-state tuition. The University provides athletic financial assistance for athletes who are eligible. It has a student-athlete handbook that discusses summer school eligibility. However, it states that all athletic financial aid is handled on a case by case basis and there is no written policy.

The University provided a sample athletic financial agreement (AFA Agreement). The AFA Agreement contains the following information: Name of the Student-Athlete, sport, the percentage of a full ride scholarship being awarded and the estimated value of the award. The AFA Agreement notes that the scholarship is dependent upon the student-athlete meeting the University's admission requirements and meeting the applicable NCAA eligibility rules at the time of the student's admission. The AFA agreement also explains that "a full athletic scholarship" is calculated by using the University's financial aid values for tuition, standard room and board, required textbooks, and compulsory fees. The AFA agreement also states that the athletic scholarship may be considered for renewal during subsequent periods of attendance as long as certain conditions are met such as: remaining eligibility in the sport noted, remaining in good academic standing as a full-time student, maintaining satisfactory progress toward graduation, and remaining in compliance with eligibility requirements of the University, WCC, and NCAA.

For both the 2014-15 and 2015-16 academic years, the University provided a roster of each athlete who received athletic financial aid, the amount the athlete received, and the athlete's sport. Initial calculations of AFA data indicate that the difference in athletic financial aid awards and unduplicated athletic participation rates was greater than 1% for the 2014-15 academic year, in favor of female athletes. Similarly, the University reported data indicates that AFA awards also favored females by more than 1% in the 2015-16 academic year.

Analysis – AFA

Based on the initial data provided, OCR identified a deficiency because AFA is not being provided in a manner which awards members of each sex in proportion to the number of students of each sex participating in intercollegiate athletics. Before OCR completed its investigation into the provision of AFA, the University expressed interest in voluntarily resolving this issue, and OCR agreed it was appropriate to do so.

Conclusion

The University requested to resolve this compliance review through a voluntary resolution agreement during the pendency of OCR's investigation. Based on the information obtained in OCR's investigation, OCR determined during the course of its investigation that it is

appropriate to resolve the compliance review with the enclosed Agreement with respect to the provision of equal athletic opportunities to students of both sexes in two component areas of the University's intercollegiate athletics program: the effective accommodation of athletic interests and abilities and the awarding of athletic financial assistance.

Based on the commitments made in the enclosed Agreement, which was signed on March 10, 2017, OCR is closing the investigation phase of this compliance review as of the date of this letter. When fully implemented, the Agreement is intended to address the deficiencies identified in this compliance review. Pursuant to the Agreement, the University will take specific actions to ensure that it provides equal athletic opportunities for students of both sexes. OCR will monitor the implementation of the Agreement until the University is in compliance with the statutes and regulations at issue in this review.

OCR has made clear to the University that OCR does not require or encourage the elimination of any University intercollegiate athletic teams and that it seeks action from the University that does not involve the elimination of athletic opportunities, because nothing in Title IX or the Three-Part Test requires an institution to cut teams or reduce opportunities for students who are participating in intercollegiate athletics in order to comply with the provisions of Title IX relating to the effective accommodation of the interests and abilities of male and female students.

In addition, the University will provide reasonable opportunities for each sex to receive athletic scholarships and/or grants-in-aid in proportion to the number of students of each sex participating in intercollegiate athletics, consistent with the requirements of Title IX, the Title IX implementing regulation at 34 C.F.R. § 106.37(c), and applicable OCR policies by no later than the beginning of the 2020-21 academic year. The University will take steps during the 2017-18, 2018-19, and 2019-20 academic years to make adjustments in the amounts of athletic scholarships and/or grants-in-aid it makes available to its male and female students in the intercollegiate athletics program to ensure they are substantially proportionate to their respective intercollegiate athletics participation rates. The University understands that nothing in this Agreement requires the University to reduce the amounts of athletic scholarships and/or grants-in-aid it offers to either sex and that any such reductions are discouraged.

This concludes OCR's investigation of this compliance review 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. OCR is closing this compliance review as of the date of this letter.

This letter sets forth OCR's determination in an individual compliance review. 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.

Please be advised that the University may not harass, coerce, intimidate, retaliate, or discriminate against any individual because he or she has participated in the compliance review resolution process. If this happens, the 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.

Thank you for your cooperation during this compliance review. If you have any questions regarding this letter or during the monitoring of the University's implementation of the Agreement, please contact the lead attorney on this compliance review, Kana Yang at kana.yang@ed.gov. or 415-486-5382.

Sincerely,

/s/

Laura Faer
Regional Director

Enclosure

cc: Ms. Donna Davis, Esq. (e-mail only)
University General Counsel