



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

January 6, 2017

Rabbi Aaron D. Panken, Ph.D.  
President  
Hebrew Union College – Jewish Institute of Religion  
3077 University Avenue  
Los Angeles, CA 90007-3796

(In reply, please refer to case no. 09-16-2297)

Dear Rabbi Panken:

This letter is to advise you of the conclusion of OCR's investigation of the above referenced case, which was opened on February 16, 2016 in response to a complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), against Hebrew Union College – Jewish Institute of Religion ("the College"). The complaint alleged that the Student<sup>1</sup> was discriminated against on the basis of sex when she was subjected to sexual harassment by a male student and the College failed to respond appropriately and effectively to notice of the harassment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §§ 1681 et seq., and its implementing regulations, which prohibit discrimination on the basis of sex including sexual harassment in education programs or activities operated by recipients of Federal financial assistance. As a recipient of federal financial assistance, the College is subject to Title IX and its implementing regulations.

In order to resolve this complaint, OCR investigated the following issues:

1. Whether the College complied with Title IX requirements regarding development and dissemination of notice of nondiscrimination on the basis of sex as required by 34 C.F.R. § 106.9;
2. Whether the College complied with Title IX requirements regarding the designation and notice of a Title IX Coordinator as required by 34 C.F.R. § 106.8(a);

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<sup>1</sup> OCR notified the College of the identity of the Student when the investigation began. We are withholding the Student's name from this letter to protect the Student's privacy.

3. Whether the College Sexual Harassment Policy and Procedures policies comply with Title IX and its regulation at 34 C.F.R. § 106.8(b); and
4. Whether the College provided the OCR Complainant with a prompt and equitable resolution to her complaint of sexual harassment filed under 34 C.F.R. §§ 106.31 and 106.8, and if not, whether the failure allowed the OCR Complainant to be subjected to a sexually hostile environment that denied or limited the Student's ability to participate in or benefit from the school's program under 34 C.F.R. §106.8 and §106.31.

OCR gathered evidence through interviews with the Student, College administrators, and other student witnesses, and by reviewing documents and records provided by the Student and the College. OCR also reviewed the College's policies and procedures that govern sexual harassment. This letter summarizes the applicable legal standards, relevant facts obtained during the investigation, and resolution of the complaint.

### Legal Standards

Sexual harassment is unwelcome conduct of a sexual nature and is a form of sex discrimination prohibited by Title IX. Sexual harassment of a student can result in the denial or limitation, on the basis of sex, of the student's ability to participate in or receive educational benefits, services, or opportunities.

### *Notice of Nondiscrimination*

The regulation implementing Title IX, at 34 C.F.R. § 106.9, requires the recipient to take specific and continuing steps to notify applicants for admission and employments, student and parents, employees, sources of referral of applicants, 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 and activities, including with respect to employment, and that it is required by Title IX not to discriminate in such a manner. The notice must include that inquiries concerning Title IX may be referred to the Title IX Coordinator or to OCR and must identify and include contact information, including the name, address, phone number and email address for the Title IX Coordinator.

### *Title IX Coordinator*

The regulations, at 34 C.F.R § 106.8(a), require that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance. This provision further requires that the recipients notify all of its students and employees of the name (or title), office address, and telephone number of the employee(s) so designated. The recipient's website must include complete and current information about the Title IX Coordinator. The recipient must ensure that employees designated to serve as Title IX coordinators have adequate training or experience in handling sexual harassment complaints and in the operation of the recipient's grievance procedures.

*Grievance Procedures*

Title IX regulations establish procedural requirements that are important for the prevention and correction of sex discrimination. These requirements include issuance of a policy against sex discrimination (34 CFR § 106.8(b)) and adoption/publication of grievance procedures providing for a prompt and equitable resolution of complaints of discrimination.

*Peer Harassment*

When a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the recipient's program. If a recipient knows or reasonably should know about student-on-student harassment that may create a hostile environment, 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. Even if the misconduct did not occur in the context of an educational program or activity, a school must consider the effects of the off-campus misconduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity because students often experience the continuing effects of off-campus sexual harassment/violence while at school or in an off-campus education program or activity. Recipients should also take steps to protect a student who was harassed/assaulted off campus from further sexual harassment or retaliation, as well as to prevent its recurrence, and address its effects if appropriate. Regardless of where the conduct occurred, the recipient must process complaints in accordance with its procedures.

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 conclusion of an investigation, Title IX requires a recipient to take steps to protect the complainant from further harassment as necessary, including taking interim measures. The recipient also should take steps to prevent any retaliation against the student who made the complaint or those who provided information. Other actions may be necessary to repair the educational environment.

Background

The College is a private university with four campuses in Cincinnati, Los Angeles, New York, and Jerusalem. The Los Angeles campus houses the Zelikow School of Jewish Nonprofit Management, where the Student began a dual degree program in the summer of 2015 to earn a Master's in Jewish Nonprofit Management from the College, and a Master's in Social Work from the XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX.

Factual Findings, Analysis, and Conclusion

**1. Whether the College complied with Title IX requirements regarding development and dissemination of notice of nondiscrimination on the basis of sex as required by 34 C.F.R. § 106.9.**

*Findings of Fact*

- The College’s Notice of Nondiscrimination (“notice”) is as follows:

EQUAL OPPORTUNITY AND NONDISCRIMINATION POLICY The Hebrew Union College – Jewish Institute of Religion, as an institution of higher education and as a community of scholars, is committed to the elimination of discrimination and the provision of equal opportunity in education and employment. As a matter of policy and, where applicable, to comply with local, state and federal laws, the College-Institute prohibits discrimination on the basis of race, color, national origin, ancestry, citizenship, religion, physical or mental disability, medical condition, marital status, age, sex, sexual orientation, gender identity or expression, or status as a Vietnam era veteran. This policy applies to students and employees of the College-Institute, as well as person’s seeking status as a student or employee with the College-Institute.

- The College told OCR that the notice is included in the National Student Handbook (“student handbook”), which is provided to new students at on-campus orientation prior to the start of instruction each year and is also available online.
- The College told OCR that the notice is available on the College’s website, but that it is otherwise not posted on the Los Angeles campus.
- The notice does not state that inquiries concerning Title IX may be referred to the Title IX Coordinator or to OCR, although as explained below, information about the College’s Title IX Coordinator/designated resource person for sexual harassment information is provided elsewhere in the student handbook.
- The notice does not identify and include contact information including the name or title, address, phone number, and email address for the College’s Title IX Coordinator/designated resource person for Title IX.

*Analysis and Conclusion*

The notice does not state that inquiries concerning Title IX may be referred to the Title IX Coordinator (or designated resource person for sexual harassment information) or to OCR, and

does not include the contact information for this individual such as their office address, phone number, and email address. Additionally, the College informed OCR that the notice is made available through the Student Handbook and on the College's website and is not posted in locations throughout the College's Los Angeles or in all publications the College makes available to students or employees. Therefore, the College's Notice of Nondiscrimination is not in compliance with Title IX and its implementing regulation at 34 C.F.R. § 106.9.

**2. Whether the College complied with Title IX requirements regarding the designation and notice of a Title IX Coordinator as required by 34 C.F.R. § 106.8(a).**

*Findings of Fact*

- There is no specific reference to the College's Title IX Coordinator on its website.
- The College's Sexual Harassment Policy and Procedures refer individuals with concerns related to sexual harassment to the College's "designated resource person for sexual harassment information." A search for "designated resource person for sexual harassment information" on the College's website yields no results unless the search is conducted from specifically within the College's Sexual Harassment Policy and Procedures.
- There are two versions of the College's Sexual Harassment Policy and Procedures online and they identify two different individuals as the College's designated resource person for sexual harassment information. The policy and procedures in the "Policies" section of the College's website is dated 2003 and identifies the "Chair of ECASA, Director of Student Services, or campus ombudsperson" as the campus' designated resource person for sexual harassment information. The policy and procedures contained in the student handbook online is dated 2015 and directs individuals to the "Campus Dean" as the "designated resource person for sexual harassment information." The College informed OCR that the 2015 version is currently used, and that the designated resource person for sexual harassment information is the Campus Dean.
- The Sexual Harassment Policy and Procedures designating the College's resource person for sexual harassment information do not include the Dean's office address, telephone number, or email address.
- The Dean's online administrative biography/directory entry does not mention his role as the College's designated resource person for sexual harassment information.
- OCR interviewed the Dean on September 29, 2016 and collected information about his training, knowledge, and skills as the designated resource person for sexual harassment information. With regard to the Dean's knowledge, he told OCR that the College's

Sexual Harassment Policy and Procedures are detailed in the student handbook and explained to students during orientation, and that his specific duties include receiving complaints of discrimination, appointing an investigator, and convening a grievance panel to respond to any allegation. The Dean told OCR that students can also make complaints to the Associate Director and Director.

- With regard to the Dean’s training and experience, the College informed OCR that the Dean completed an anti-harassment course online during August-September 2016 entitled “Workplace Harassment Fundamentals,” but that it was not specific to Title IX. The College informed OCR that the Dean has not received other recent Title IX training.
- The Dean told OCR that he had received Title IX training in the past but could not recall the dates; the College was unable to verify this statement.
- The College’s Sexual Harassment Policy and Procedures provide that, “A pool of individuals on each campus will be trained annually to investigate complaints and serve on grievance review panels” and that the pool is drawn from administration/staff, faculty and students, and that “student representatives will be chosen by the student body.”
- The College told OCR that it has not trained the pool of potential investigators and grievance panel members during the 2016-2017 year and that such training “will occur when a review committee is formed.”

#### *Analysis and Conclusion*

The College identified a “designated resource person for sexual harassment information” as its Title IX Coordinator. However, this term refers to an individual’s duty rather than their title, making it difficult to notify students and staff regarding the identity of this person on the College’s website. For example, a search for “designated resource person for sexual harassment information” on the College’s website yields no results unless a person is searching specifically within the College’s Sexual Harassment Policy and Procedures, which is the only place this language appears. OCR also has concerns that the term “designated resource person for sexual harassment information” may not be sufficient to inform students, staff, and third parties that complaints of sexual harassment can and should be made to this individual.

Furthermore, the Sexual Harassment Policy and Procedures do not include the designated resource person’s contact information including their office location, phone number, and email address. OCR also found that there are two versions of the Sexual Harassment Policy and Procedures on the College’s website, and the designated resource person is different in each version. The policy and procedures contained in the “Policies” section of the website is from 2003 and identifies the designated resource person as the “Chair of ECASA, Director of

Student Services or campus ombudsperson.” However, the policy and procedures contained within the 2015 National Student Handbook online identifies the “Dean of the Campus” as the designated resource person. This discrepancy provides confusing notification to students and staff.

OCR found that the College’s designated resource person for sexual harassment information currently does not have sufficient training and expertise for this position. The College informed OCR that the Dean’s recent training consisted solely of the completion of three-part online workplace harassment in higher education course during August-September 2016, and that this training did not include Title IX content, such as reporting and investigation requirements. The Dean told OCR that he had received Title IX training in the past but could not recall the dates; however, the College was unable to verify this statement.

Among the designated resource person’s duties after receiving a sexual harassment complaint is to appoint someone to investigate the allegations. The College’s Sexual Harassment Policy and Procedures state that “a pool of individuals on each campus will be trained annually to investigate complaints and serve on grievance review panels.” However, the College told OCR that “there has been no training for pool members; that will occur when a review committee is formed.” OCR found that the College is not proactively training a pool of investigators and is instead waiting to do so until after there has been a formal complaint. OCR also has serious concerns that the College’s policy of including students in the investigator/grievance panel pool could result in students investigating the complaints of their peers, creating the possibility of a conflict of interest.

Therefore, OCR determined that the College was not in compliance with the regulations implementing Title IX at 34 C.F.R § 106.8(a) regarding designation, notification, and training of the College’s Title IX Coordinator.

**3. Whether the College Sexual Harassment Policy and Procedures policies comply with Title IX and its regulation at 34 C.F.R. § 106.8(b).**

*Findings of Fact*

The College provided OCR with its 2015 National Student Academic Handbook, which includes its current Sexual Harassment Policy and Procedures (“policy and procedures”). The College informed OCR that the student handbook is provided to all students at orientation and is also available online. As described in the analysis section above, the policy and procedures are available on the College’s website. The following facts were also relevant to OCR’s investigation:

- The Dean told OCR that the Associate Dean reviews the policy and procedures with all new students during orientation, and that students are required to sign a written acknowledgment form that they have received and read them.
- The Dean told OCR that if a new student misses orientation, arrangements are made for them to receive the Student Handbook and information about the policy and procedures from the Associate Dean.
- The policy and procedures do not include any contact information for the College's designated resource person for sexual harassment.
- The College informed OCR that, as with the notice of nondiscrimination, the College does not post its policies or procedures on campus but that they are given to students and are on the College's website.
- The policy and procedures state that they apply to "off-campus field based educational placement sites." The policy and procedures do state whether they apply to alleged incidents occurring off-campus and not in field-based education placements.
- With regard to their applicability to third-parties, the policy and procedures state that, "A third party may also contact a designated official if the sexual conduct of others in the education or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic or professional performance."
- The policy and procedures provide that, "A pool of individuals on each campus will be trained annually to investigate complaints and serve on grievance review panels" and that the pool is drawn from administration/staff, faculty and students.
- The College told OCR that it has not trained the pool of potential investigators and grievance panel members during the 2016-2017 year and will not do so until a complaint is received.
- The policy and procedures do not designate reasonably prompt timeframes for all major stages of the investigation and grievance process, in some cases stating only that certain steps will be taken expeditiously. For example, there is no timeframe for beginning the investigation ("As soon as possible, the Dean will appoint someone from a pool of trained community members to investigate the allegations."); for completing the investigation ("The investigator will conduct a fair, impartial, and timely investigation."); or for providing the parties with information about the investigation after it concludes ("Upon completion of the investigation, the investigators will prepare a report.").

- The policy and procedures contain no timeframe for setting a grievance panel review hearing date after the completion of the investigation.
- The policy and procedures do not state a process for extending deadlines, if necessary, in the investigative/grievance processes.
- The policy and procedures provide for the complainant and respondent to receive “a copy of the minutes of the grievance hearing and the summary of the deliberations,” which “will note the sanction(s) to be imposed, if any.”
- The policy and procedures do not include assurance that the institution will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

#### *Analysis and Conclusion*

The College’s Sexual Harassment Policy and Procedures are limited so as not to ensure the process is available for all potential complaints under Title IX and to ensure nondiscrimination. In specific, they do not explicitly state that they apply to “complaints alleging discrimination or harassment carried out by employees, other students, and third parties and to all school & school related programs and activities whether or not they occur on or off campus.” Instead, they state that they apply to “all faculty, staff, students and applicants for admission and employment,” and that they are to be followed in “all employment practices, personnel policies, financial assistance and educational programs.” The application of the policy and procedures to “school and school-related activities” is not included.

Additionally, the application of the policy and procedures to complaints brought by third parties is limited to incidents where “the sexual conduct of others in the education or work environment has the purpose or effect of substantially interfering with the third party’s welfare, academic or professional performance.” OCR is concerned that the use of this language in the College’s policy will be read as a precondition for complaints (i.e. a third party may only complain of sexual conduct that substantially limits welfare, academic or professional performance.). The application of the policy and procedures to off-campus programs and activities is limited (or written as limited) to field-based educational placement sites; there is no mention of coverage of other off-campus programs and activities that are school and school-related, such as the circumstances allegedly giving rise to the Student’s complaint.

The policy and procedures also do not designate reasonably prompt timeframes for major stages of the grievance process other than the instigation of a complaint, instead stating that various steps should be undertaken expeditiously. For example, the procedures include the following guidance: “As soon as possible the Dean will appoint someone from a pool of trained community members to investigate the allegations.” The policy and procedures have no process for extending timelines, and there is no assurance that the institution will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainant and others, if appropriate. Additionally, as discussed above, OCR determined that there are two versions of the policy and procedures online, potentially impeding timely notification to students and staff as to how to complain of sexual harassment. Also, as discussed above, there has been no recent Title IX training for either the designated resource person for sexual harassment information or for potential members of the grievance panel, as is required by 34 C.F.R. § 106.8(b). As a result, OCR determined that the College Sexual Harassment Policy and Procedures do not comply with Title IX and its regulation at 34 C.F.R. § 106.8(b).

**4. Whether the College provided the OCR Complainant with a prompt and equitable resolution to her complaint of sexual harassment filed under 34 C.F.R. §§ 106.31 and 106.8, and if not, whether the failure allowed the OCR Complainant to be subjected to a sexually hostile environment that denied or limited the Student’s ability to participate in or benefit from the school’s program under 34 C.F.R. §106.8 and §106.31.**

*Findings of Fact*

- As part of the program in Jewish nonprofit management at the College, the Student took the class, “Introduction to Jewish Communal Institutions,” which included field trips to local Jewish nonprofit organizations every week.
- The Student told OCR that she carpoled with a male and female classmate (Students A and B, respectively) to these field trips every XXXXXXXXXX from June XX, 2015 through August X, 2015.
- The Student told OCR that every week during these carpools she was sexually harassed by Student A, who made degrading and explicit comments about women including describing his sexual experiences and playing music on the car stereo with sexually explicit lyrics.
- The Student told OCR that she complained to Student A every week and asked him to stop talking in a sexually explicit and degrading manner, and to stop playing music with sexually explicit lyrics, but that he refused.

- The Student told OCR that another student, Student C, also made sexually degrading and sexually explicit comments during this period, primarily at College-related social events on and off campus.
- The Student told OCR that she is a survivor of past sexual assault and that she suffers from PTSD and generalized anxiety and depression which were worsened by Student A's and Student C's comments.
- The Student told OCR that she complained to the College three times of the sexually degrading and explicit comments of Student A or Students A and C, but that the College "did not do anything," including that the College did not tell her how to make a complaint and did not investigate her allegations.
- The Student told OCR that the first time she complained to the College was at a meeting with the program's Associate Director at the beginning of July 2015.
- The Student told OCR that during this meeting she told the Associate Director about Student A's comments about women, and that she described them as "sexually degrading" and "explicit" and stated that they made her feel "extremely uncomfortable" and that they negatively impacted her mental health. The Student told OCR that she also told the Associate Director at this meeting that the car pool was a "hostile environment." The Student told OCR that Associate Director was dismissive of her concerns, telling her that "these types of comments" are "not uncommon" and that the Student needed to be more empathetic and try and deal with them. The Student told OCR that at this meeting the Associate Director did not tell her how or that she could make a sexual harassment complaint, and did not offer to talk to the male students about their alleged harassing comments.
- The Student told OCR that she was never provided with information about the College's sexual harassment policy and procedures, whether the College had a Title IX Coordinator, or how to make a complaint.
- The Associate Director told OCR that she does not remember this meeting specifically, that she had at least two individual meetings with the Student and two or three more with the Student and the program's Director. The Associate Director told OCR that she was also the instructor of the class "Introduction to Jewish Communal Institutions" which included the fieldtrips. The Associate Director told OCR that she cannot recall the Student ever complaining to her that she was being sexually harassed or subjected to sexually degrading comments by Student A or Student C, and that she saw the Student every week in class as well as around campus.

- The College told OCR that the Student did not make any formal written complaints of sexual harassment.
- The Student told OCR that she did not make any formal written complaints of sexual harassment.
- The College told OCR that all students are provided with the student handbook at an orientation weekend before classes start, that the student handbook contains policies and procedures for reporting complaints of sexual harassment, and that the Associate Dean further explains the policies and procedures to new students during orientation weekend.
- The Associate Director told OCR that she was at orientation weekend for the student cohort starting in during the Summer 2015 semester, and that the Associate Dean reviewed the College's sexual harassment policies and procedures with the new students. The College provided OCR with an acknowledgement form signed by the Student and dated July X, 2015 stating that she had received and understood the College's sexual harassment policy and procedures.
- The Student told OCR that she does not remember signing the acknowledgement form because she signed a lot of documents as a new student during her early weeks at the College.
- The College provided OCR with a copy of correspondence from the Associate Director to the College's legal counsel dated August XX, 2015, which detailed concerns raised by students and faculty regarding the Student's behavior. In this correspondence, the Associate Director describes meeting with the Student alone for the first time on July XX, 2015 after the Student appeared visibly upset after class. The correspondence does not memorialize the Student telling the Associate Director about the alleged sexual harassment; instead it states that the Student was upset because she did not feel like the College was "the right environment for her."
- The Student told OCR that she told a friend, Student D, that she had informed the Associate Director in early July about Student A's and Student C's comments and that the Associate Director was dismissive of her concerns. Student D told OCR that he was aware of the alleged sexually harassing comments by Student A at the time Student A and the Student were carpooling, as the Student discussed them with him (Student D).
- However, Student D told OCR that the Student never told him about Student C's alleged sexually harassing comments. Student D told OCR that the Student never told him that she had informed the Associate Director of Student A's and Student C's alleged sexually

harassing comments and that the Associate Director had responded by being dismissive and telling the Student to try and be more empathetic and to get along better with her classmates. Student D told OCR that he was surprised that the Student continued to car pool with Student A, as Student D had offered to drive her and the Student also had her own car.

- Student D told OCR that he does not remember the Student saying that she had asked Student A to stop making the comments, and that he (Student D) would have remembered that because that is what he suggested the Student do every time they (the Student and Student D) talked about it. Student D told OCR that he does not remember the Student “framing” Student A’s comments as “sexual harassment” or as a “big thing” at the time they were happening.
- The Student told OCR that the second time she informed the College of the alleged sexual harassment was on September XX, 2015 when she told the Dean that Students A and C had made sexually degrading and explicit comments that negatively impacted her mental health and, ultimately, her behavior at the College. The Student alleges that the Dean did not respond to her complaint and instead discussed other things with her, such as the offer of a leave of absence.
- The Dean told OCR that he recalls the meeting because it was the only time he met with the Student individually, but that he does not recall her saying to him that she was subjected to sexually degrading or explicit language.
- The Student told OCR that her third notification to the College of the alleged sexual harassment was during a meeting with the Director and Associate Director on September XX, 2015. The Student alleges that she told the Director, with the Associate Director present, about the explicit and degrading comments made by Student A during the carpool rides, including their effect on her health and behavior, but that the Director did not respond and focused instead on her behavior.
- The Director told OCR that he recalled this meeting and that the Student did not mention the alleged sexual harassment. The Associate Director told OCR she recalled this meeting but did not recall whether the Student mentioned the alleged sexual harassment.

#### *Analysis and Conclusion*

OCR determined that the preponderance of evidence does not support a conclusion that the College failed to provide the Student with a prompt and equitable resolution to a complaint of sexual harassment, and that she was not subjected to a sexually hostile environment that denied or limited her ability to participate in or benefit from the school’s program under Title IX and its implementing regulation at 34 C.F.R. §106.8 and §106.31. The evidence did not

support the Student's allegation that she had complained to the College about the alleged sexual harassment. The Student and the College agree that the Student never made a formal written complaint to the College regarding the alleged harassment. The Program Director told OCR that the Student did not verbally complain to him; the Associate Director and Dean told OCR that they could not recall the Student verbally complaining to them; and contrary to the Student's assertion, Student D told OCR that the Student never told him that she had verbally complained to the Associate Director about Student A's and Student C's alleged harassing conduct. Additionally, the College provided OCR with a copy of correspondence from the Associate Director to the College's counsel dated August XX, 2015 containing detailed accounts of her meetings with the Student during the semester, including the meeting on July XX, 2015 at which the Student alleges she complained of sexual harassment. The description of the meeting memorialized in the letter does not include the Student's allegation of sexual harassment. Absent notification of the harassment, the College could not provide Complainant with a prompt and equitable resolution to her complaint pursuant to its sexual harassment policy and procedures under 34 CFR § 106.8(b).

OCR also could not substantiate the Student's assertion that she was never told by the College about its sexual harassment policy and procedures, including how to make a sexual harassment complaint. OCR found that the student handbook contained this information and that it was provided to the Student at orientation, and OCR found credible the Associate Director's statement that she was present at the orientation for the Student's cohort starting in summer 2015 and that the Associate Dean had provided this information to students. The College also provided OCR with a document that was signed by the Student on July X, 2015 acknowledging that she had read the College's sexual harassment policies and procedures, and the Student confirmed to OCR that it was her signature on the document, though she did not remember receiving and signing it.

### Overall Conclusion

Based on the factual information gathered during the course of its investigation, OCR concluded that the preponderance of evidence supports the conclusion that the College is not in compliance with Title IX and its implementing regulations with respect its Notice of Nondiscrimination on the basis of sex, designation and notice of a Title IX Coordinator, and Sexual Harassment Policy and Procedures. OCR also concluded that the College did not fail to provide the Student with a prompt and equitable resolution to her complaint of sexual harassment because it was not on notice of the alleged harassing conduct and was in compliance with Title IX and its implementing regulation with respect to this allegation.

On December 22, 2016 the College entered into the enclosed Agreement with OCR that is aligned with the allegations, issues investigated, and the information obtained by OCR during the investigation. The Agreement requires the College to review and revise its Sexual Harassment

Policy and Procedures, Equal Opportunity and Nondiscrimination Policy, and Title IX Coordinator training to be consistent with Title IX and its implementing regulations. When fully implemented, the Agreement is intended to address all the noncompliance findings identified in this investigation. OCR will monitor the implementation of agreement until the College is in compliance with Title IX and its implementing regulations.

OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Complainant concurrently. 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 that 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, 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.

OCR wishes to thank the College and its counsel for its assistance in resolving this complaint. If you have any questions please contact OCR attorney Matthew Wood at 415-486-5591 or [Matthew.Wood@ed.gov](mailto:Matthew.Wood@ed.gov).

Sincerely,

/s/

Kendra Fox-Davis  
Team Leader

Enclosure