



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

September 3, 2021

VIA ELECTRONIC MAIL

Dr. Dianne G. Van Hook  
Chancellor  
College of the Canyons

(In reply, please refer to case no. 09-20-2416.)

Dear Chancellor Van Hook:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has resolved the above-referenced complaint against the College of Canyons (College). The Complainant alleged that the College discriminated against her on the basis of sex.<sup>1</sup> Specifically, OCR investigated the following issue:

Whether the College discriminated against the Complainant on the basis of her pregnancy when she was hospitalized and gave birth on the day her XXXXXXXX lab was due on May XX, 2020, and the College did not provide her with an extension on her assignment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681-1688, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex under any education program or activity receiving Federal financial assistance. The College receives funds from the Department and is therefore subject to Title IX and the regulation.

OCR began its investigation by reviewing documents and correspondence provided by the Complainant and the College and by interviewing the Complainant. Prior to OCR completing its investigation, the College voluntarily expressed an interest in resolving the compliance concerns identified by OCR with respect to the issue investigated, and OCR determines that it is appropriate to do so. As such, the College entered into a resolution agreement (Agreement) to address the identified compliance concerns.

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<sup>1</sup> OCR previously provided the College the identity of the Complainant. We are withholding the Complainant's name from this letter to protect her privacy.

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

## **Legal Standard**

Under the Title IX regulations, at 34 C.F.R. § 106.31(a) and (b), a college or university may not treat individuals differently on the basis of sex with regard to any aspect of services, benefits, or opportunities it provides. Section 106.31 (b) states that a college or university may not, on the basis of sex, treat a person differently in determining whether he or she satisfies any requirement or condition for the provision of an aid, benefit, or service.

Section 106.40(a) of the Title IX regulations prohibits a school from applying any rule related to a student's actual or potential parental, family, or marital status that treats students differently based on their sex. Section 106.40(b)(1) states that colleges or universities are prohibited from discriminating against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Section 106.40(b)(5) provides as follows: if a college or university does not maintain a leave policy for its students, or in the case of the student who does not otherwise qualify for leave under such a policy, a college or university shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

Title IX requires a college or university to excuse a student's absences due to pregnancy or related conditions, including recovery from childbirth, for as long as the student's doctor deems the absences to be medically necessary. When the student returns to school, she must be reinstated to the status that she held when the leave began, which should include giving her the opportunity to make up any missed work.

## **Facts to Date**

The Complainant was enrolled in XXXXXXXX XXX during the Spring of 2020 and was pregnant at the time.

The College informed OCR that there are no Student Services Board Policies to address a student's request for an extension on an assignment or an exam. According to the College, these issues are generally addressed by individual faculty members in their syllabus.

The syllabus for XXXXXXXX XXX states in part:

No late assignments will be accepted, regardless of reason. There are zero make-up labs allowed, regardless of reason for missing.... Because there are no make-up labs, you are allowed to drop your lowest lab assignment. Unexcused absences will still count as a 0. If an absence is pre-approved and discussed prior to the absence, you may be allowed to complete the lab make-up assignment. If you are absent the day a lab is due... and you do not turn in the lab on time, it will not be accepted and will be assigned a 0, even if you attended the lab.

On May XX, 2020, at 9:42 AM, the Complainant sent an email to her XXXXXXXX Instructor stating that she was admitted to the hospital and would be induced into labor. The Complainant asked her Instructor for an extension on her XXXXXXXX quiz and her lab assignment that was due at 11:59 PM.

At 10:31 AM, the Instructor responded to the Complainant by email stating, "Since the quiz is timed and on a shorter time frame than the regular assignments in the modules, I do offer make-ups for those for up to a week, as long as it is for an excused absence (which this is). However, you will need to take a separate quiz from everyone else.... Since the labs, just like homework assignments, are usually posted for over a week in advance of the due date, I do not usually offer extensions for those. But you are allowed to drop your lowest lab score, just for situations such as these!" The College told OCR that the lab assignment was not accepted late because the Complainant knew about her doctor's appointment in advance and did not complete the assignment before it was due.

At 11:46 AM, the Complainant sent another email to the Instructor stating that she already missed turning in a few lab assignments because they were too difficult and would like an opportunity to turn in her current lab assignment to earn some points.

At 12:41 PM, the Instructor emailed the Complainant offering to meet with her during her office hours on June X, 2020, to go over a few practice problems before the final exam that was to take place the next day. The Instructor, however, did not agree to accept the Complainant's late lab assignment.

At 12:41 PM, the Complainant emailed the Dean of Math, Science and Engineering (Dean) requesting an extension for a few days to turn in her XXXXXXXX lab assignment because she was going to give birth to her child. The Dean responded by email at 4:59 PM stating that she would not grant the extension to the XXXXXXXX lab assignment.

The Complainant told OCR that she gave birth to her baby at around XXXX PM that evening.

On May XX, 2020, at 12:56 PM, the Complaint sent an email to the Title IX Coordinator asking for his assistance because her Instructor would not give her an extension on her XXXXXXXX lab assignment.<sup>2</sup>

At 4:46 PM, the Instructor sent an email to the Complainant asking when she could make up the quiz. The Complainant responded by email at 6:47 PM stating that she would like to take her quiz on XXXXXX, May XX, 2020. The Instructor followed up with an email a few minutes later stating that the quiz will be available for the Complainant to take starting from 9:00 AM on May XX, 2020, to 12:00 AM on May XX, 2020.

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<sup>2</sup> The Title IX Coordinator is also the Vice President of Student Services.

On May XX, 2020, at 9:43 AM, the Title IX Coordinator emailed the Complainant stating that he contacted the Vice President, Dean, and Instructor regarding her request for an extension on her lab assignment.

On May XX, 2020, the Complainant took the make-up XXXXXXXX quiz.

On June X, 2020, the Complainant had a medical appointment for her baby during the time of the final exam. As a result, the Instructor allowed the Complainant to take the exam later in the evening.

On June XX, 2020, the Title IX Coordinator emailed the Complainant stating that the Instructor told him that the Complainant's final grade of a "C" would not change even if the lab assignment was accepted late. The Title IX Coordinator wrote in his email that the Instructor told him the following:

After inputting her final exam grade (XXXXX) and also replacing her lowest exam grade with that percent, she would receive a 71.5% in the course (XXXXXX points), which is a C (on a 70%-79% grading scale). Even if she... received full credit for the lab in question and possibly even a homework assignment, she would receive a maximum of 25 points for those assignments (10 for HW and 15 for lab), which would give her a XXXXX, giving her a 74% in the course... [this] would not have changed her overall grade...."

The Title IX Coordinator also informed the Complainant that she could pursue a grade grievance if she disagreed with the Instructor.

The Complainant told OCR that she does not want an opportunity to turn in her lab assignment at this time, but that she would like to ensure that other pregnant students are provided with accommodations for their pregnancy and birth-related conditions as required under Title IX regulations.

## **Analysis**

Based on the facts gathered to date, OCR identified two compliance concerns. First, while the Instructor allowed the Complainant to take her quiz at a later time due to her birth-related hospitalization on May XX, 2020, OCR is concerned that the Instructor did not provide her with an opportunity to turn in her lab assignment when she returned to school. The Title IX regulations at 34 C.F.R. § 106.40(b)(5) requires the College to excuse a student's absences due to pregnancy or birth-related conditions and, when the student returns to school, reinstate her to the status that she held when the leave began. This obligation includes providing the student with an opportunity to make up any missed work. Instead, the College asserts that the Complainant should have turned in the lab assignment before it was due if she knew she had a medical appointment on May XX, 2020. Based on the information collected to date, OCR is concerned that the Instructor did not allow the Complainant to make up her lab assignment when she returned to school.

Second, the emails also showed that the Complainant contacted the Dean and the Title IX Coordinator after her Instructor denied the extension on her lab assignment. Both administrators denied the Complainant's request to turn in her lab assignment late, in part due to the fact that the possible points she could earn on the assignment would not change her final grade. OCR is concerned that the two administrators, especially the Title IX Coordinator, did not provide the Student with the option to make up her lab assignment under Title IX, but instead advised her to file a grade grievance.

OCR did not complete its investigation, and therefore has not reached a conclusion as to whether the College violated Title IX, as alleged. However, as explained above, the facts OCR has gathered thus far raise Title IX compliance concerns with respect to the issue in this case.

### **Resolution**

Prior to the completion of OCR's investigation, the College expressed an interest in resolving the compliance concerns identified by OCR, pursuant to Section 302 of OCR's Complaint Processing Manual (CPM).<sup>3</sup> OCR determined that it was appropriate to do so in this case. The College, without admitting to any violation of law, signed the attached Agreement which is aligned with the compliance concerns identified and the information obtained by OCR thus far during its investigation.

Under the Agreement, the College agreed to issue written guidance to its faculty and administrators regarding Title IX's prohibition of discrimination against students based on pregnancy or birth-related conditions and the College's obligation to accommodate pregnant students and those recovering from childbirth. Finally, the College agreed to add a notice to its website that will contain the following: Title IX's prohibition of discrimination against students based on pregnancy or birth-related conditions; the College's obligation to accommodate pregnant students and those recovering from childbirth; and contact information for the Title IX Coordinator and his/her availability to respond to questions and concerns by pregnant students and those recovering from childbirth.

### **Conclusion**

Based on the commitments made in the enclosed Agreement, OCR is closing the investigation of the complaint as of the date of this letter and notifying the Complainant concurrently. When fully implemented, the Agreement is intended to address the complaint allegation. OCR will monitor the implementation of Agreement until the College is in compliance with the terms of the Agreement. Upon completion of the obligations under the Agreement, OCR will close the complaint.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College's compliance with any other regulatory provision or to address any issue other than that

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<sup>3</sup> OCR's CPM (dated August 26, 2020) can be found at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

addressed in this letter. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

Please be advised that the College may not harass, coerce, intimidate, retaliate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a 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, it will seek to protect, to the extent provided by the law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

OCR thanks Eileen O'Hare-Anderson for her continued assistance in resolving this case. If you have any questions regarding this letter, please contact Minako Sakurai at [Minako.Sakurai@ed.gov](mailto:Minako.Sakurai@ed.gov).

Sincerely,

/s/

Naghmeh Ordikhani  
Team Leader

cc: Eileen O'Hare-Anderson  
Partner  
Liebert Cassidy Whitmore