



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

915 2<sup>ND</sup> AVE., SUITE 3310  
SEATTLE, WA 98174-1099

October 15, 2015

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Mr. Don Crowell  
Owner  
Beauty Academy  
208 South Wenatchee Avenue  
Wenatchee, Washington 98801

Re: Beauty Academy  
OCR Reference No. 10152202

Dear Mr. Crowell:

The Office for Civil Rights (OCR) of the U.S. Department of Education is discontinuing its investigation of the above-referenced complaint that was filed against the Beauty Academy (the academy) on June 18, 2015. As described below, prior to the conclusion of OCR's investigation, the academy expressed interest in voluntarily resolving the complaint and signed the enclosed Resolution Agreement (agreement) to address the allegation asserted in the complaint.

The complaint alleged that in June 2015, the academy discriminated against a cosmetology program student (hereinafter, referred to as the student), based on sex, by not allowing her to take maternity leave from the academy's cosmetology program and instead withdrew her from the program. OCR accepted the complaint for resolution under the authority of title IX of the Education Amendments of 1972 (Title IX) and that statute's implementing regulations at 34 CFR Part 106. Title IX and its implementing regulations prohibit discrimination based on sex in programs and activities of recipients of federal financial assistance from the U.S. Department of Education. Because the academy is a recipient of federal financial assistance from this Department, it is required to comply with Title IX and the Title IX implementing regulations.

Title IX at 20 USC 1681 provides in part, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..." The Title IX regulation at 34 CFR 106.40 provides in part:

- (a) Status generally. A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.
- (b) Pregnancy and related conditions.

- (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.
- (2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.
- (5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient 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.

As of this date, OCR has the following information related to the allegation.

1. The student told OCR that she asked the academy for maternity leave for the period of May 22 through October 1, 2015, and provided the academy with her physician's medical certification that the leave was necessary due to her high-risk pregnancy.
2. The student provided OCR with her physician's handwritten medical certification dated May 22, 2015. The medical certification states "XXXXXXXXXXXXXXXXXXXXX. She can be expected to return to work/school October 1, 2015."
3. The student told OCR that the academy owner denied her maternity leave request and told her she had used up her leave allowance.
4. The student provided OCR with two letters sent to her by the academy's director and financial aid administrator, both dated June 15, 2015. The first letter informed the student that the academy was withdrawing her from the cosmetology program due to lack of attendance and requested the student to make an appointment to assist the academy in closing her file. The first letter states, "We realize your inability to attend may be beyond your control, but we do have policies in place that we must follow." The first letter also has a handwritten note that states, "Give us a call and let us know when you have an idea of the month you want to re-enroll." The second letter requested the student to complete exit counseling to select a repayment plan; review deferment, forbearance, and cancellation provisions; review loan consolidation; and review the serious consequences of delinquency and default on student loans.
5. The student provided OCR with undated academy attendance and leave policies which do not expressly address maternity leave. The academy told OCR that it has a leave of absence policy but does not have a maternity leave policy.

6. The academy told OCR that the student had been withdrawn because she had missed too much school under the student financial aid rules, which state that after 14 days absence, a school must terminate a student. The academy contends that the student had not asked the academy for maternity leave.

At this stage of the complaint investigation, OCR has not conducted interviews of the academy owner, academy director, any academy staff members, or any witnesses other than the student. The positions presented thus far in the investigation suggest that the academy may have a leave policy that conflicts with its Title IX obligations. Further investigation would be needed to make findings on the key facts in this case.

In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint.<sup>1</sup> In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the academy requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the academy resulted in the academy signing the enclosed agreement.

The actions the academy will take under the agreement are to:

- develop leave policies and procedures for pregnancy-related leave for OCR's approval;
- disseminate written notices about the adopted leave policies and procedures to students, applicants, employees, and contractors; and
- provide a remedy for the student.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report the academy is required to provide to OCR by the agreement is due by October 23, 2015.

Thank you for the cooperation that you extended to OCR in resolving the complaint. If you have any questions, please contact Noel Nightingale, Lead Attorney, by telephone at (206) 607-1632, or by e-mail at [noel.nightingale@ed.gov](mailto:noel.nightingale@ed.gov).

Sincerely,

Paul Goodwin  
Team Leader

Enclosure: Resolution Agreement

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<sup>1</sup> OCR's *Case Processing Manual* may be found on-line at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.