



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

June 29, 2017

*Via U.S. Mail and Email (scscott@waketech.edu)*

Dr. Stephen C. Scott  
President  
Wake Technical Community College  
9101 Fayetteville Road  
Raleigh, North Carolina 27603-5696

Re: OCR Complaint No. 11-16-2258  
Letter of Findings

Dear Dr. Scott:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received on XXXX against Wake Technical Community College (the College). The Complainant filed the complaint on behalf of a student (the Student) at the College, as well as on behalf of male students as a class. The Complainant alleged that the College discriminated against male students on the basis of sex. Specifically, the complaint alleged the following:

The College discriminated against male students, including the Student, based on sex, when it offered female single-sex science, engineering and math courses resulting in fewer available seats for male students.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department. Because the College receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Title IX.

In reaching a determination, OCR reviewed documents provided by the Complainant and the College, and interviewed the Complainant and College faculty. After carefully considering all of the information obtained during the investigation, OCR identified a violation. On June 28, 2017, the College agreed to resolve the violation through the implementation of the enclosed Resolution Agreement, pursuant to Section 303(b) of OCR's *Case Processing Manual*.

OCR's findings and conclusions are discussed below.

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

## **Background**

The Student was scheduled to enroll as a XXXX for the XXXX academic year. Prior to the XXXX semester, the Complainant stated that the Student attempted to register for a section of XXXX (the Course) but found the co-educational section was full, while a women-only section of the Course held at the same time and location had empty seats. The Student joined a waitlist for the co-educational section of the Course. However, because the Student could not gain a seat in his desired co-educational section of the Course, he registered for a different section at a less desirable time and location; this precluded him from taking another prerequisite course that was offered at the same time as the Course section for which he was able to register. The Complainant also provided a computer screen shot indicating that there was a waitlist for the Student's desired co-educational section of the Course, and the Student was XXXX on the waitlist of XXXX students.

In response to the allegation, the College explained that in 2013, the College conceived the Women in Science, Technology, Engineering, and Math Learning Community (WiSTEM) program. The WiSTEM webpage states that the program “provides academic and social support for women in community colleges who are considering a major in a STEM-related field – science, technology, engineering, or mathematics.”<sup>1</sup> The Dean of Mathematics, Science, and Engineering (Dean) informed OCR that prior to the creation of WiSTEM, the College observed that a small percentage of women were advancing in upper level STEM courses; therefore, in 2012, it began to study ways to improve the retention of women in STEM courses. As a result, in 2013, the College established the WiSTEM program with the goal of sustaining interest in STEM fields and began offering women-only sections of some courses during the 2014-2015 academic year. The Dean stated that the WiSTEM program included women-only classes, mentoring, and speakers, among other elements. The Dean explained that, currently, the only active element of WiSTEM is women-only classes. The Dean stated that the remaining WiSTEM elements are generally inactive but, when active, are open to all students, regardless of sex, including the STEM speaker series, grants, internships, and clubs. Further, OCR did not find any additional information to indicate that components of the WiSTEM program, other than the women-only courses, excluded students on the basis of sex, whether active or inactive.

In addition to the Dean, OCR also interviewed a professor who has taught both women-only and co-educational sections of the same WiSTEM course (the Professor).<sup>2</sup> Both the Dean and the Professor stated that they were unaware of any male students registering for a women-only section of a class. They stated that to complete registration for a women-only section, a student must complete a form acknowledging that she is female before the College removes a registration block and allows the student to register; and that if a male student requested to register for a women-only course, he would not be permitted to do so. The Dean further stated that as co-educational sections of WiSTEM courses become full, the College has added additional co-educational sections, and that on occasion, it has canceled women-only sections for low enrollment. However, the Dean stated that the College has not opened up women-only sections to students who were unable to enroll in full co-educational sections.

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<sup>1</sup> See <http://www.waketech.edu/stem/women-stem>.

<sup>2</sup> The Professor taught the Course [XXXX].

During the 2014-2015<sup>3</sup> and 2015-2016 academic years, as well as the Fall 2016 semester of the 2016-2017 academic year, the College offered twenty-three women-only sections in five different courses within the subject areas of Mathematics, Biology, and Chemistry, which the Dean also confirmed. During the five semesters at issue, the five courses included MAT 171 XXXX, MAT 172, BIO 111, BIO 112, and CHEM 151. Further, within these five courses, the College offered 384 sections across the five semesters, and of these, 361 were open to all students.<sup>4</sup>

With respect to the Student's attempts to register for the Course during the XXXX semester, the College stated that its registration system is fully automated. When a space becomes available for a waitlisted course, the system contacts the first person on the waitlist; that person has 24 hours to register for the course; and then the system automatically notifies each subsequent person on the list as space becomes available. The College does not have a method of monitoring the identities of individual students who are on a waitlist, although individual students have the ability to manage courses for which they are registered and waitlisted. Therefore, the College stated that it did not have any documentation to indicate whether the Student attempted to register for a co-educational section of the Course during the XXXX, and it had not retained any information regarding whether the Student had been waitlisted for the Course.<sup>5</sup>

### **Legal Standards**

The Title IX regulation, at 34 C.F.R. § 106.31(a), provides that no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the College's education programs or activities on the basis of sex.

The regulation implementing Title IX, at 34 C.F.R. § 106.34(a), further states:

“Except as provided for in this section or otherwise in this part, a recipient shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation therein by any of its students on the basis of sex.”

The regulation includes three exceptions to this prohibition that could apply to postsecondary institutions: contact sports in physical education classes; ability grouping in physical education classes; and choruses. 34 C.F.R. § 106.34(a)(1), (2), (4).<sup>6</sup>

### **Analysis**

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<sup>3</sup> Again, the College first began offering WiSTEM courses during the 2014-2015 academic year.

<sup>4</sup> The College reported the numbers provided for the course sections offered; however, OCR noted that these numbers included 65 duplicate classes that shared the same class or lecture session but had multiple lab sections. For example, the College offered two lab sections for the same class or lecture that met on Tuesday and Thursday at 9 a.m., and, therefore, counted two sections. Prior to OCR omitting the 65 duplicate classes, the College offered 449 sections, and of these, 426 sections were open to all students.

<sup>5</sup> In addition, on XXXX, the College added an additional co-educational section of the Course, which was held at the same time as the Complainant's desired waitlisted section; as of the date on which the College submitted documentation to OCR, this section appeared to have 1 seat available.

<sup>6</sup> The Title IX regulation also makes an exception for classes on human sexuality at the elementary and secondary level, at 34 C.F.R. § 106.34(a)(3).

Based on the foregoing, OCR has determined that the College does not dispute that it offers single-sex women-only courses as part of its WiSTEM program. The College stated that it scheduled women-only courses “to meet the purpose of the learning community and to ensure fairness and access for all students, regardless of sex.” Further, the College provided OCR with documentation showing enrollment, by sex, for each section of all WiSTEM courses from the 2014-2015 academic year through the present, and such documentation demonstrated the existence of single-sex women-only courses as discussed above.

Therefore, OCR considered whether the courses fell within one of the three established exceptions for postsecondary institutions provided within the Title IX regulation. Because OCR found that the courses did not fall into either of the two physical education exceptions or the exception regarding chorus courses, OCR determined that the courses were not permitted under any exceptions provided within the Title IX regulation, as defined above.

Accordingly, OCR has determined that there is sufficient evidence to substantiate that the College discriminated against male students, including the Student, on the basis of sex, and violated the regulation implementing Title IX, at 34 C.F.R. § 106.34(a), by offering single-sex courses that do not fall under one of Title IX’s permitted exceptions.

Regarding the Student specifically, based on the information obtained during the course of the investigation, OCR was unable to substantiate whether the Student was subjected to any additional individual harm, beyond the initial act of being denied the ability to access the women-only section of the Course along with other male students, as described above. Specifically, although the Complainant asserted that the Student suffered harm by being denied access to his desired section of the Course, and was therefore inconvenienced because he could not take another prerequisite course at that time, there was no other evidence to indicate that he suffered any further tangible or long-lasting harm that was directly attributable to the existence of the women-only section of the Course. Moreover, OCR was unable to determine whether in the absence of, or but for, the women-only section of the Course during the XXXX semester, the Student would have been able to register for his desired section of the Course, particularly given the number of students waitlisted for his desired section, as well as the number of other co-educational sections of the Course involved. Therefore, OCR has determined that there is no individual prospective relief available to the Student.

Nevertheless, as stated above, OCR determined that there was sufficient evidence to substantiate that the College generally discriminated against male students, including the Student, on the basis of sex.

### **Conclusion**

On June 28, 2017, the College agreed to implement the enclosed Resolution Agreement (Agreement), which commits the College to take specific steps to address the identified areas of noncompliance. The Agreement entered into by the College is designed to resolve the issues of noncompliance. Under Section 303(b) of OCR’s *Case Processing Manual*, a complaint will be considered resolved and the College deemed compliant if the College enters into an agreement that, fully performed, will remedy the identified areas of noncompliance (pursuant to Section

303(b)). OCR will monitor closely the College's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may conduct additional visits and may request additional information as necessary to determine whether the College has fulfilled the terms of the Agreement and is in compliance with Title IX with regard to the issues raised. As stated in the Agreement entered into by the College on June 28, 2017, if the College fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings, including to enforce the Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the College's cooperation in the resolution of this complaint. If you have any questions regarding this letter please contact one of the OCR attorneys assigned to this complaint, Amy Schumacher Williams at 202-453-5933 or [Amy.Williams2@ed.gov](mailto:Amy.Williams2@ed.gov), or Megan Ballard at 202-453-6739 or [Megan.Ballard@ed.gov](mailto:Megan.Ballard@ed.gov).

Sincerely,

/s/

Letisha Morgan  
Team Leader, Team II  
Office for Civil Rights  
District of Columbia Office

Enclosure

cc: Benita Clark, Vice President of Human Resources & College Safety  
*Via email to [biclark@waketech.edu](mailto:biclark@waketech.edu)*