



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

March 26, 2015

Katherine S. Conway-Turner, Ph.D.
President
State University of New York, Buffalo State College
1300 Elmwood Avenue
Buffalo, New York 14222

Re: Case No. 02-15-2085
State University of New York – Buffalo State College

Dear President Conway-Turner:

On (b)(6),(b)(7)(C), the U.S. Department of Education, New York Office for Civil Rights (OCR) received the above-referenced complaint filed against the State University of New York (SUNY) – Buffalo State College (the College). The complainant alleged that the College failed to respond promptly and equitably to the report of sexual assault that she made on (b)(6),(b)(7)(C), thereby subjecting her to a sexually hostile environment. OCR has determined that this allegation is appropriate for investigation.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 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 U.S. Department of Education (the Department). The College is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

Because OCR has determined that it has jurisdiction and that the complaint was filed in a timely manner, it is opening this allegation for investigation. Please note that opening the allegation for investigation in no way implies that OCR has made a determination with regard to its merit. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of OCR's *Case Processing Manual*.

Enclosed is a document entitled, "OCR Complaint Processing Procedures." This document will provide you with an overview of OCR's complaint evaluation, investigation, and resolution process. OCR will collect only material needed to investigate this complaint and will take all proper precautions to protect the identity of any individuals named in documents.

The regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6(b) and (c), requires that a recipient of federal financial assistance make available to OCR information that may be necessary for it to determine whether a recipient is in compliance with the regulations it enforces. This requirement is incorporated by reference in the regulation implementing Title IX, at 34 C.F.R. § 106.71. This information is also being requested pursuant to 34 C.F.R. § 99.31(a)(3)(iii). Please submit the information listed on the enclosed data request to OCR within twenty (20) days of the date of this letter or OCR may conduct an onsite file review in order to obtain this information in a timely manner.

OCR's goal is the prompt and appropriate resolution of the allegations contained in a complaint. OCR offers, when appropriate, an Early Complaint Resolution (ECR) process, similar to mediation, to facilitate the voluntary resolution of complaints by providing an early opportunity for the parties involved to resolve the allegation(s). Some information about the ECR process is contained in the enclosure to this letter entitled, "OCR Complaint Processing Procedures," and on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html#II>.

Also, when appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient expresses an interest to OCR to resolve the complaint. In such cases, OCR obtains a resolution agreement signed by the recipient. This agreement must be aligned with the complaint allegations or the information obtained during the investigation, and it must be consistent with applicable regulations. Additional information about this voluntary resolution process may be found in the enclosure entitled, "OCR Complaint Processing Procedures," and on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html#III>.

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, it 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 staff will contact you within twenty (20) days of the date of this letter to discuss the complaint resolution process. In the interim, if you have any questions, please contact Letisha Morgan, Senior Compliance Team Investigator, at (646) 428-3827 or letisha.morgan@ed.gov; or, Joy M. Purcell, Compliance Team Attorney, at (646) 428-3766 or joy.purcell@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Félice A. Bowen". The signature is written in a cursive, flowing style.

Félice A. Bowen
Compliance Team Leader

Data Request

Case No. 02-15-2085

SUNY Buffalo State College (the College)

██████████ (the complainant)

Due Date: April 15, 2015

Please provide the following items for academic year 2014-2015, unless otherwise indicated, or state in writing whether any requested material does not exist:

1. Copies of the College's policies and procedures, and/or a description of its practices, governing the investigation of complaints of harassment/assault/violence on the basis of sex. Include a detailed description of the complaint process, including each level of the process, the length of the process, and the types of records maintained (including how long such records are retained). Also, provide the names and titles of the College's staff responsible for handling complaints of harassment/assault/violence on the basis of sex, at each level of the process.
2. An explanation of the means by which the College informed students, parents, employees, and third parties, of the policies and procedures referred to in Item 1, above. Submit copies of all materials disseminated.
3. Copies of publications that contain the College's nondiscrimination notice, or website link(s) for any electronic postings of the nondiscrimination notice; and, a list of campus locations where the notice of nondiscrimination is physically posted, if any.
4. Copies of the College's policies and procedures, and/or a description of its practices, governing: (a) disciplinary or corrective actions that may be taken to address sexual harassment/assault/violence by students, employees, and third parties; and, (b) the provision of services to the victims of sexual harassment/assault/violence, if any.
5. The name, office address, and telephone number of the College's designated Title IX Coordinator(s). Indicate the method(s) by which this information is disseminated to students, employees, and third parties. Provide copies of all publications/websites that contain this information.
6. Copies of all documentation related to the complainant's report(s)/complaint(s) of sexual assault, as well as subsequent reports of harassment and/or retaliation made by or on behalf of the complainant, including but not limited to: a copy of any written report(s)/complaint(s) or record(s) of oral report(s)/complaint(s), investigative reports, witness statements, hearing transcripts, electronic mail messages (emails), text messages, telephone logs, and other correspondence.
7. A detailed description of the steps and actions the College took in response to each report/complaint relating to the alleged sexual assault of the complainant, and each subsequent report/complaint of alleged harassment and retaliation filed by or on behalf of the complainant, including:

- a. a description of the procedures employed by the College to investigate the complaints;
 - b. a description of interim remedial measures (academic, athletic, or other) provided by the College to the complainant during the pendency of the investigation, and any appeal/grievance hearing;
 - c. the timeline for completion of each stage of the investigation process, and any appeal/grievance hearing;
 - d. the final outcome of all investigation(s) and any appeal/grievance hearing(s), including any final remedial measures;
 - e. the name(s) and title(s) of the College staff involved in the investigation and any appeal/grievance hearing processes;
 - f. the evidentiary standard applied by the College to determine the outcome of the complainant's report(s)/complaint(s), for all stages of the investigation and any appeal/grievance hearing;
 - g. the types of records maintained, and how long such records were retained;
 - h. copies of the College's Title IX grievance procedures and sex discrimination/harassment (including sexual assault and violence)/retaliation policies and procedures relied upon to respond to any complaints filed by the complainant; and,
 - i. the sex of the complainant, accused student(s), and witnesses.
8. Copies of all documentation, including but not limited to, letters, emails, reports, notes, logs, meeting minutes, grievance hearing transcripts, discipline records, telephone records, campus public safety records, and other external law enforcement agency records related to:
 - a. the College's processing of the report(s)/complaint(s) filed by the complainant;
 - b. the College's handling/investigation of, or any appeal/grievance hearing regarding the report(s)/complaint(s) filed by the complainant, including any notices to the parties;
 - c. appeals filed;
 - d. the appeal/grievance hearing, including any notices to the parties;
 - e. communications between the College and the complainant (or anyone acting on her behalf) regarding the accused student;
 - f. communications between the College, athletic department personnel/staff/athletic team members, and/or the complainant; and,
 - g. communications regarding the accused student's standing at the College, pending completion of the investigation, and the appeal/grievance hearing.
9. Copies of any media maintained by the College regarding the alleged incident of sexual assault involving the complainant and the accused student, and alleged incidents of harassment and retaliation following the report of sexual assault, including but not limited to, printouts of social media postings/email groups of the complainant and the accused student, and/or other members of the College community.
10. A copy of the complainant's academic transcript.
11. Copies of all other documentation relevant to the allegation raised in this complaint, including: notes, report(s)/complaint(s) filed by the complainant or on her behalf, investigative reports,

memoranda, witness statements, meeting minutes, and all other correspondence, including correspondence with the complainant or on her behalf.

12. Any other information the College believes would assist OCR in this investigation.
13. The name, title, telephone number, and email address of the College's designated contact person for this complaint.