



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
CLEVELAND OFFICE
600 SUPERIOR AVENUE EAST, SUITE 750
CLEVELAND, OHIO 44114-2611**

AUG 25 2011

Mark H. Erickson, Ph.D.
Office of the President
Wittenberg University
P.O. Box 720
Springfield, Ohio 45501

Re: OCR Docket # 15-11-2115

Dear Dr. Erickson:

On July 26, 2011, the U.S. Department of Education (the Department), Office for Civil Rights (OCR) received the above-referenced complaint filed against Wittenberg University (the University), on behalf of a University student (the Student), alleging that the University discriminated against the Student on the basis of sex. Specifically, the complaint alleges that the University failed to respond appropriately when the Student reported that she was sexually assaulted by a male student athlete (b)(6),(b)(7)(C) on (b)(6),(b)(7)(C). In addition, the complaint alleges that the University's grievance procedure does not comply with Title IX.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in education programs and activities that receive Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to the requirements of Title IX. Accordingly, OCR has jurisdiction over this complaint.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely, it is opening this complaint for investigation. Based on the complaint allegations, we will investigate the following issues:

- whether the University interfered with or limited the ability of a student to participate in or benefit from the services, activities, or privileges provided by the University by effectively causing, encouraging, accepting, tolerating, or failing to correct a sexually hostile environment of which it had actual or constructive notice in violation of the Title IX implementing regulation at 34 C.F.R. § 106.31; and
- whether the University has adopted grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of student complaints under Title IX in accordance with the Title IX implementing regulation at 34 C.F.R. § 106.8(b)..

Please note that opening allegations for investigation in no way implies that OCR has made a determination with regard to their merits. 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 allegations, in accordance with the provisions of Article III of OCR's *Case Processing Manual*.

For your reference, the document enclosed entitled "*OCR Complaint Processing Procedures*" includes information about:

- OCR's complaint evaluation and resolution procedures, including the availability of Early Complaint Resolution (ECR);
- regulatory prohibitions against retaliation, intimidation and harassment of persons who file complaints with OCR or participate in an OCR investigation; and
- application of the Freedom of Information Act and the Privacy Act to OCR investigations.

Additional information about the laws OCR enforces is available on our website at: <http://www.ed.gov/ocr>.

We intend to conduct a prompt investigation of this complaint. The Title IX regulation, at 34 C.F.R. § 106.71, incorporates by reference the procedural requirements of the Title VI regulation, at 34 C.F.R. § 100.6, which requires that a recipient of Federal financial assistance make available to OCR information that may be pertinent to reach a compliance determination. In addition, in accordance with the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, at 34 C.F.R. § 99.31(a)(3)(iii), and the Title VI regulation at 34 C.F.R. § 100.6(c), OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, we are requesting that you forward the following information to us within fifteen calendar days of the date stamped at the top of this letter:

1. the name and title of the employee responsible for coordinating the University's compliance with Title IX and documentation of where this employee's contact information is published;
2. copies of all University policies and procedures regarding sex discrimination, sexual harassment and sexual assault, including but not limited to, grievance procedures, disciplinary policies, investigative procedures, and campus police policies; please also include any such policies and procedures that are specific to the University's athletic teams;
3. a copy of the University's student conduct code and any other document(s) that contain the University's policies and procedures regarding student discipline, including for sexual harassment/sexual assault;
4. a copy of any University code of conduct that is specific to student athletes;
5. the names and titles of all University employees who are responsible for investigating complaints of sexual harassment and sexual assault made by students;
6. a copy of any documents or records that discuss or relate to a complaint of sexual assault filed with the University by the Student or on behalf of the Student (b)(6),(b)(7)(C) on or about (b)(6),(b)(7)(C) including, but not limited to, correspondence, e-mails, memoranda, meeting minutes, notes, videos or voice recordings, student records, investigative files and reports, police reports, interview memos, transcripts, hearing transcripts or notes, discipline records, or any other documents or records that discuss or relate to the complaint, the University's investigation of the complaint, the disposition of that complaint, and any action the University took, including interim and disciplinary measures, to address the complaint;
7. the name and title of each individual, including campus police, involved in investigating or otherwise addressing the above-referenced complaint;
8. a list of any meetings held with the Student to discuss the sexual assault allegations; for each such meeting, please provide:
 - the date the meeting was held
 - the purpose of the meeting

- the names and titles of the individuals present for the meeting
 - any documentation related to the meeting, including e-mails, notes, memoranda, meeting minutes, correspondence or other related documents
9. a listing of all written complaints of sexual harassment/sexual assault made against a University student during the (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C), including the nature of the alleged conduct, the dates the complaint was filed, the sex of the alleged victim and harasser, and the outcome of the complaint investigation, including any such complaints filed against (b)(6),(b)(7)(C) (the male student);
 10. a copy of the University's housing policies in effect during the (b)(6),(b)(7)(C) academic year;
 11. a copy of the complete disciplinary record, maintained by the University, for the male student who was accused of sexually assaulting the Student;
 12. copies of the Student and the male student's class schedules and athletic activity schedules for the (b)(6),(b)(7)(C) academic year;
 13. a listing of the dates of any training regarding Title IX as it applies to sexual harassment, including sexual assault and violence, the University provided or offered to 1) University personnel; and 2) University students during the past three academic years, including copies of any related materials distributed at the trainings; and
 14. any additional information that the University believes will assist OCR in investigating this complaint.

In addition to the information requested above, OCR may need to request other documentation and we may also need to interview persons at the University with knowledge of the facts of this case. If we determine that an on-site visit is necessary, we will contact you to schedule a mutually convenient time for the visit.

Please note that this complaint may be appropriate for Early Complaint Resolution (ECR), a voluntary process similar to mediation during which an OCR staff person facilitates communication between the parties in an attempt to resolve complaint allegations. If we believe that this complaint is appropriate for ECR, we will contact you to discuss this option.

Upon receipt of this letter, please notify OCR of the name, address, and telephone number of the person who will serve as the University's contact person during the resolution of this complaint. When contacting this office about the above-referenced complaint, please refer to OCR Docket # 15-11-2115. If you have any questions, please contact Ms. Sarah Poppleton, Equal Opportunity Specialist, by telephone at (216) 522-2674 or by e-mail at Sarah.Poppleton@ed.gov.

Sincerely,

(b)(6),(b)(7)(C)

Catherine D. Criswell
Director

Enclosure