



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

January 3, 2017

Michael V. Drake, M.D.
President
The Ohio State University
205 Bricker Hall | 190 North Oval Mall
Columbus, Ohio 43210

Re: OCR Docket No. 15-16-2157

Dear Dr. Drake:

On May 13, 2016, the U.S. Department of Education's Office for Civil Rights (OCR) received a complaint against The Ohio State University (the University), alleging discrimination on the basis of sex. Specifically, the complaint alleges that the University failed to appropriately respond to notice by a third party in Non Responsive of an alleged sexual assault by a University professor at an academic conference.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106 (Title IX), which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Title IX.

Because OCR determined that it has jurisdiction and that the complaint was filed timely, it is opening the complaint for investigation. Based on the complaint allegation, we will investigate the following legal issue: whether the University permitted a sexually hostile environment (i.e., sexually harassing conduct by an employee that was sufficiently serious that it denied or limited students' ability to participate in or benefit from the University's program and/or affected individuals' employment, unreasonably interfered with work performance, or created an intimidating, hostile, or offensive work environment) to persist in any University program or activity after receiving notice from a third party of a University employee's alleged sexual harassment, in violation of the Title IX implementing regulation at 34 C.F.R. § 106.31 and/or 34 C.F.R. § 106.51.

Please note that opening an allegation for investigation in no way implies that OCR has made a determination with regard to its 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 allegation(s) in accordance with the provisions of Article III of OCR's *Case Processing Manual*.

Please read the enclosed document, entitled "OCR Complaint Processing Procedures," which 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
- the application of the Freedom of Information Act and the Privacy Act to OCR investigations.

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

OCR intends to conduct a prompt investigation of this complaint. The regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6, which is incorporated by reference into the Title IX regulation at 34 C.F.R. § 106.71, requires that a recipient of Federal financial assistance make available to OCR information that may be pertinent to reaching 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.

OCR is therefore requesting that you forward the following information to OCR within fifteen calendar days of the date at the top of this letter. Wherever possible, please provide the requested information via e-mail (and Bates-labeled, if you have that capability); otherwise please provide the information via hard copy:

1. a copy of all documentation concerning any formal or informal complaints or reports or other forms of notice concerning alleged sexual harassment, including sexual violence, by University employee Non
Responsive (Employee) by students or others (including, but not limited to, those received by University personnel, campus police, or those received elsewhere and then referred to the University) or investigated/resolved by the University during the 2014-2015, 2015-2016, and 2016-2017 academic years, including:
 - a. a copy of any written complaints or reports, and a detailed description of any verbal complaints and/or any other forms of notice received;
 - b. a copy of all investigative files, including the investigative files of the campus police, interview memoranda, witness statements, and related documents, concerning any University investigation of these complaints or reports or other notifications;

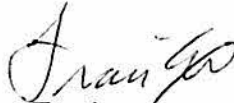
- c. a copy of any documents showing the steps of the investigation and the results of the University's investigation, including any correspondence, e-mails, and other documents, as well as how the University notified pertinent parties of the outcome of each investigation;
 - d. a detailed description of any action the University took to stop any harassment or discrimination and to prevent any additional discrimination or harassment based on sex, while each complaint or report or other form of notice identified in response to request 1(a) above was being investigated (interim measures) or after the investigation concluded;
 - e. a copy of any documents, including discipline records, memoranda, e-mails, notes, or other documents, that discuss or relate to any disciplinary or other remedial/responsive action the University took in response to each complaint or report or other notice identified in response to request 1(a) above; and
 - f. for each complaint or report or other notice of alleged sexual harassment and/or violence responsive to this request, identify (1) whether the University found that the complainant and/or others were sexually harassed/assaulted; (2) whether the University found that any complaint was part of a larger pattern of similar complaints involving the Employee; and (3) whether the University made any conclusion about whether the complainant and/or others were subject to a sexually hostile environment.
2. a copy of the Employee's personnel file, including any disciplinary actions.
3. Any other documentation or narrative explanation the University would like OCR to consider in its investigation, including the identification of relevant witnesses. For each individual identified, please provide a name, title (if any), and current contact information.

Thank you for your cooperation in this matter. OCR also may need to interview individuals at the University with knowledge of the facts of this case. If OCR determines that an onsite visit is necessary, OCR will contact you to schedule a mutually convenient time for its visit.

The University is also hereby notified that it should retain all electronically stored information and other records, in their originally created format, containing information related to the subject matter of this complaint, including emails, word processing documents, spreadsheets, databases, calendars, telephone logs, internet files, network access information, and other media-based information (such as personal digital assistants and digital voice mail), even after it has provided OCR with paper copies and whether or not OCR has included the information in this initial data request. Please also retain all non-electronic documents and evidence in whatever form, including personal or desk files, calendars, notes, correspondence, drafts, policies, manuals, or other things relevant to the case.

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 OCR's investigation of this complaint. If you have any questions, please contact Ms. Karla Ussery, the OCR staff person who has been assigned to investigate this complaint, by telephone at (216) 522-2683 or by e-mail at Karla.Ussery@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Traci Ext", written in a cursive style.

Traci Ext
Chief Attorney

Enclosure