



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

TIMOTHY C. J. BLANCHARD  
DIRECTOR  
NEW YORK OFFICE

May 4, 2017

(b)(7)(C)  
(b)(7)(C)

New York, New York 10116

Re: Case No. 02-17-2091  
Hunter College of the City University of New York

Dear Ms. (b)(7)(C):

On December 27, 2016, the U.S. Department of Education (the Department), Office for Civil Rights (OCR) received the above-referenced complaint you filed against Hunter College of the City University of New York (the College). You provided additional information regarding your complaint in electronic mail (email) correspondence and during interviews on January 23, 2017, and March 10, 2017. You alleged that College officials subjected you to harassment, because of your race and national origin, when (a) a staff member in the registrar's office prevented you from registering for classes in academic year 2014-2015, and (b) an instructor in your (b)(7)(C) course laughed at you and refused to answer your questions in class in or around February 2016 (Allegation 1). You also alleged that College officials subjected you to harassment, because of your age, by (a) removing you from a (b)(7)(C) course in February 2016, and (b) advising you to apply for private loans in October 2016 because you were no longer eligible for federal financial aid (Allegation 2). You further alleged that the College discriminated against you, on the basis of sex, by failing to respond promptly and equitably to reports of sexual assault that you made in October and November 2016 (Allegation 3). Additionally, you alleged that the College retaliated against you, for filing complaints of sexual assault with the College in October and November 2016, by (a) failing to investigate a complaint you made in January 2017 that a (b)(7)(C) took inappropriate pictures of you without your consent, and (b) placing a hold on your student account in or around (b)(7)(C) 2016 (Allegation 4). Based on the information you provided in your complaint, email correspondence, and interviews, OCR has determined that Allegations 3 and 4 are appropriate for investigation; however, OCR has determined that it will not investigate Allegations 1 and 2 for the reasons set forth below.

OCR has determined Allegations 1(a) and (b) and Allegation 2(a) are untimely filed with OCR. OCR requires that complaints be filed with OCR within 180 days of the alleged acts of discrimination, unless the time for filing is extended by this office. The acts about which you complained with respect to Allegations 1(a) and (b) and Allegation 2(a) occurred before February



2016, more than 180 days prior to the date you filed your complaint with OCR on December 27, 2016.

You requested a waiver of the timeliness requirement. You informed OCR that you did not file Allegations 1(a) and (b) and Allegation 2(a) sooner because you attempted to resolve your concerns by meeting with and emailing College officials in or around February 2016, and by emailing College officials in October 2016. OCR may grant a waiver of the timeliness requirement if an internal grievance alleging the same discriminatory/retaliatory conduct that is the subject of the OCR complaint is filed within 180 days of the act of alleged discrimination/retaliation, and the complaint is filed with OCR within 60 days of the completion of that process. With respect to Allegations 1(a) and (b), your contacts with College officials in February and/or October 2016 took place more than 180 days after the alleged discriminatory conduct. With respect to Allegation 2(a), you stated that the College issued its response to your complaint in May 2016, yet you did not file your complaint with OCR until December, more than 60 days from the College's decision. Accordingly, the circumstances you described do not warrant a waiver of the timeliness requirement. Therefore, your request for a waiver has been denied, and OCR has dismissed Allegations 1(a) and (b) and Allegation 2(a).

With respect to Allegation 2(b), you alleged that a staff member in the College's financial aid office subjected you to harassment by telling you on one occasion in October 2016 that you were not eligible for federal financial aid because you were "old,"<sup>1</sup> had been in school for too long, and had accumulated too many credits." Harassment on the basis of age that creates a hostile environment is a form of discrimination prohibited by the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and its implementing regulation at 34 C.F.R. Part 110. Harassing conduct can include verbal, written, graphic, physical or other conduct, and can create a hostile environment if it is sufficiently serious to interfere with or deny a student's participation in or receipt of benefits, services or opportunities in the institution's program. You provided no information indicating that the alleged comment interfered with or denied your participation in any benefits or services at the College; rather, you stated that shortly thereafter, also in October 2016, you met with a different College (b)(7)(C) who resolved your concerns with respect to financial aid eligibility. OCR determined that the financial aid staff member's alleged comment on one occasion, without more, is not sufficient for OCR to infer that discrimination may have occurred. Accordingly, OCR has dismissed Allegation 2(b).

As stated above, OCR will investigate Allegations 3 and 4.

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 education programs and activities receiving federal financial assistance. The College is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title IX.

The regulation implementing Title IX, at 34 C.F.R. § 106.71, incorporates by reference 34 C.F.R. § 100.7(e) of the regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which provides that no recipient or other person shall intimidate,

---

<sup>1</sup> You informed OCR that you are 60 years old.



threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing held in connection with a complaint.

Because OCR has determined that it has jurisdiction and that Allegations 3 and 4 were filed in a timely manner, it is opening the allegations for investigation. Please note that opening the 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.

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). Information about the ECR process is contained in the publication entitled, "OCR Complaint Processing Procedures," which was enclosed with OCR's previous letter to you acknowledging your complaint. This information is also on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>.

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 also be found in the previously enclosed publication, and on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>.

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. You may have the right to file a private suit in federal court whether or not OCR finds a violation.

You have the right, pursuant to the regulation implementing the Age Discrimination Act, at 34 C.F.R. § 110.39, to file a civil action for injunctive relief in federal court following the exhaustion of administrative remedies. Administrative remedies are exhausted if: (1) 180 days have elapsed since the complainant filed the complaint with OCR, and OCR has made no finding, or (2) OCR issues any finding in favor of the recipient. A civil action can be brought only in a United States district court for the district in which the recipient is found or transacts business. A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but these costs must be demanded in the complaint filed with the court. Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary of the Department, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient. The notice shall state the violation

of the Age Discrimination Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails. The complainant may not bring an action if the same alleged violation of the Age Discrimination Act by the same recipient is the subject of a pending action in any court of the United States.

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 individual may file a 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 that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR will communicate with you periodically regarding the status of Allegations 3 and 4. In the interim, if you have any questions, please contact Janet Pfeffer, Senior Equal Opportunity Specialist, at (646) 428-3833 or [Janet.Pfeffer@ed.gov](mailto:Janet.Pfeffer@ed.gov); or Alexander Artz, Senior Compliance Team Attorney, at (646) 428-3901 or [Alexander.Artz@ed.gov](mailto:Alexander.Artz@ed.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'at 8'.

*for* Anna Moretto Cramer  
Compliance Team Leader