



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I  
5 POST OFFICE SQUARE, 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

APR 17 2017

Drew Gilpin Faust  
President  
Office of the President  
Harvard University  
Massachusetts Hall  
Cambridge, MA 02138

Re: Complaint No. 01-16-2149  
Harvard University – Faculty of Arts & Sciences

Dear President Faust:

The U.S. Department of Education, Office for Civil Rights (OCR) has received the above-referenced complaint that was filed against Harvard University's (University's) Graduate School of Arts and Sciences. The Complainant alleged that the University discriminated against her on the basis of sex by failing to promptly and equitably respond to her report (b)(6); (b)(7)(C) sexual assault by another student (Allegation 1). OCR has determined that this allegation is appropriate for investigation. OCR will also investigate whether the University failed to respond promptly and equitably to reports and/or incidents of sexual violence of which it had notice and whether as a result students were subjected to a sexually hostile environment (Allegation 2).

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 educational programs or activities receiving federal financial assistance. The University is subject to Title IX because it is a recipient of federal financial assistance from the U.S. Department of Education.

Because OCR has determined that it has jurisdiction and that the complaint was filed in a timely manner, it is opening the allegations for investigation. Specifically, OCR will examine the following issues:

- Whether the University failed to respond promptly and equitably to complaints and reports of sexual harassment, including sexual violence, by the Complainant and others, and if so, whether the University perpetuated a sexually hostile environment, in violation of 34 C.F.R. §§ 106.8(b), 106.31(a) and (b);
- Whether the University failed to adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee/personnel Title IX complaints of sexual harassment, including sexual violence, in violation of 34 C.F.R. § 106.8(b);

- Whether the University failed to designate a Title IX coordinator to coordinate its efforts to comply with and carry out its responsibilities under Title IX, in violation of 34 C.F.R. § 106.8(a); and
- Whether the University failed to implement, publish, and distribute a notice of non-discrimination, in violation of 34 C.F.R. § 106.9.

OCR notes that it is currently investigating Complaint Nos. 01-14-2158 and 01-15-2178, involving Harvard College students, to determine the University's compliance with Title IX. In accordance with OCR's case processing procedures, OCR has determined that it is appropriate to consolidate the investigation of this complaint (01-16-2149) with its ongoing investigation of OCR Complaint Nos. 01-14-2158 and 01-15-2178, in which OCR is currently addressing similar allegations under Title IX. As noted in the attached data request, to the extent that the University previously submitted data in Complaint Nos. 01-14-2158 and 01-15-2178 and the data has not changed, the University is not required to reproduce the same data.

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 OCR's Case Processing Manual, which can be found online at: <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

We have enclosed a preliminary data request. Please provide the requested data to this office within fifteen (15) calendar days of the date of this letter. Because some of this information may have been previously submitted in conjunction with the prior OCR complaints (Complaint Nos. 01-14-2158 and 01-15-2178), the University may reference data that was previously submitted if responsive to a specific request.

OCR's authority to gather information and conduct an investigation is found at the regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. Sections 100.6(b) and (c) and 100.7(c), which is incorporated by reference into Title IX at 34 C.F.R. Section 106.71. The regulation implementing the Family Educational Rights and Privacy Act at 34 C.F.R. Section 99.31(a)(3)(iii) specifically authorizes educational institutions to disclose personally identifiable information concerning students to OCR. Further, pursuant to 34 C.F.R. Section 100.6(c), an institution may not assert considerations of privacy or confidentiality to bar OCR from performing its investigative function. Accordingly, the University must provide OCR access to the requested records in original, non-redacted form.

Regulations enforced by OCR prohibit retaliation. Pursuant to the regulations, no recipient or other person shall intimidate, 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. If this happens, another complaint may be filed 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 constitute an unwarranted invasion of personal privacy.

Should you have any questions regarding this letter, please contact Senior Attorney Emma Kim at (617) 289-0159 or [emma.kim@ed.gov](mailto:emma.kim@ed.gov). Please reference Case No. 01-16-2149 in your communications with OCR.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christine V. Colmey', with a long horizontal flourish extending to the right.

Christine V. Colmey  
Team Leader

Enclosure



**Data Request**

OCR Complaint No. 01-16-2149

Recipient: Harvard University Faculty of Arts and Sciences

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

**Instructions**

- Within 15 days of the date of the attached cover letter, please provide the following items for (b)(6), (b)(7)(C) or state in writing whether any requested material does not exist. Subsequent to the University's response(s) to this data request but prior to the conclusion of OCR's determination process, OCR will accept supplemental materials from the University that it believes will materially impact or alter OCR's investigation.
- To the extent that the University previously submitted any of the following data in OCR's ongoing investigation of Complaint Nos. 01-14-2158 and 01-15-2178 and that data has not changed, the University may reference the specific data from Complaint Nos. 01-14-2158 and 01-15-2178 and need not produce the same data again.
- OCR's authority to gather information and conduct an investigation is found at the regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. Sections 100.6(b) and (c) and 100.7(c), which is incorporated by reference into Title IX at 34 C.F.R. Section 106.71. The regulation implementing the Family Educational Rights and Privacy Act, at 34 C.F.R. Section 99.31(a)(3)(iii), specifically authorizes educational institutions to disclose personally identifiable information concerning students to OCR. Further, pursuant to 34 C.F.R. Section 100.6(c), an institution may not assert considerations of privacy or confidentiality to bar OCR from performing its investigative function. Accordingly, the University must provide OCR access to the University's records in original, non-redacted form.
- Please provide the submissions in electronic format by email, CD, or flash drive. Additionally, if any of the information is available on-line, you may provide a URL in lieu of hard copy materials.
- You may send the information to the attention of Senior Attorney Emma Kim at:

E-mail: [Emma.Kim@ed.gov](mailto:Emma.Kim@ed.gov)

Office: Emma Kim  
U.S. Department of Education  
Office for Civil Rights  
5 Post Office Square

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<sup>1</sup> For (b)(6), (b)(7)(C) please provide information in effect as of the date of the University's response, unless an alternative timeframe is specifically requested.













