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March 20, 2013

Via Email (OCR.Dallas@ed.gov)

Office for Civil Rights, Dallas Office
U. S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810

Re: Formal Complaint under Title IX against Southern Methodist University

Dear Sir/Madame:

Our law firm represents (b)(7)(C) in connection with a sexual assault incident that occurred on (b)(7)(C) on the campus of Southern Methodist University (SMU), in Dallas, Texas. We are sending you this letter, on behalf of our client, requesting your immediate attention due to the reckless manner in which SMU handled the subject incident. For the reasons set forth below, we respectfully request that the Office for Civil Rights accept this letter as a formal complaint under Title IX against Southern Methodist University.

Our client, (b)(7)(C) was a (b)(7)(C) year old (b)(7)(C) at SMU and a (b)(7)(C) (b)(7)(C) and needless to say, he was extremely excited about his future. All of that changed on (b)(7)(C) when he was sexually assaulted on SMU's campus by another student identified as (b)(7)(C) (b)(7)(C). Following reporting the incident to SMU officials the next day, SMU engaged in a course of conduct that violated various provisions of Title IX. *I have attached several news articles reporting the subject incident for your reference.*

The first action by SMU that violated Title IX concerned the manner in which SMU reported the incident via their Crime Alert. The initial draft of the alert contained several specific facts that would clearly advise (b)(7)(C) (the assailant) that (b)(7)(C) had reported the assault. For example, it revealed that the incident involved a (b)(7)(C) assault, that the two knew each other and the exact addresses where the attacks occurred (b)(7)(C).

(b)(7)(C) When the draft of the alert was shown to (b)(7)(C) he was terrified and feared that (b)(7)(C) would retaliate against him.¹ After discussing these concerns with (b)(7)(C) the Associate Provost for SMU, (b)(7)(C) was assured that the alert would be revised so these specific facts would not be revealed. The actual alert that was issued, however, contained all of the specific facts. *A copy of the SMU Crime Alert is attached.* Within two minutes of the alert being issued, (b)(7)(C) received a phone call and a text message from (b)(7)(C). This obviously terrified (b)(7)(C) that retaliation was an imminent threat. The specificity of the alert was not necessary given the fact that SMU knew (b)(7)(C) identity. Associate Provost (b)(7)(C) apologized to (b)(7)(C), stated that the campus police chief was going to be in trouble for issuing the alert and further commented that it was obvious to her that SMU had put its public relations interests ahead of (b)(7)(C).²

While SMU's response to the incident appears to have been prompt, it certainly was not equitable. By their own admission, SMU made a conscious decision to put their own interests ahead of (b)(7)(C), to simply avoid more bad press about all the sexual assaults that were occurring on their campus. *I have attached several press articles that shed some light of the environment at SMU during the relevant time period.* Because of the specificity of the alert, SMU created an immediate dangerous and hostile environment for (b)(7)(C). SMU failed to offer (b)(7)(C) any interim safety measures to protect/insulate him from any retaliatory actions. Soon after the alert was issued and (b)(7)(C) was left without any safety measures, he began experiencing bullying and harassment from (b)(7)(C) intimidating stare downs from (b)(7)(C) (b)(7)(C) (b)(7)(C) and mysterious phone calls and knocks on his door. When he complained to SMU about the harassment from his (b)(7)(C) SMU moved (b)(7)(C) to another dorm. However, the (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) (b)(7)(C) Consequently, (b)(7)(C) continued to be fearful of retaliatory action.

Additionally, within two days of the incident, the Associate Provost (b)(7)(C) tried to discourage and dissuade (b)(7)(C) from cooperating with law enforcement authorities. She told (b)(7)(C) that she was a (b)(7)(C), and that cases like this one would never result in an indictment. She told (b)(7)(C) that pursuing a case like this would be more trouble than it was worth. She suggested to (b)(7)(C) that it would be better to just let SMU handle the situation, and

¹ (b)(7)(C) is a (b)(7)(C) who is involved in several student affairs such as (b)(7)(C) of SMU's (b)(7)(C) of the (b)(7)(C), an (b)(7)(C) (b)(7)(C) (b)(7)(C) and a (b)(7)(C). During the sexual assault, in addition to using physical force, (b)(7)(C) threatened (b)(7)(C) that if he told anyone about the incident, (b)(7)(C) would use (b)(7)(C) power and influence to destroy (b)(7)(C) life around campus (i.e. blackballing him from being able to join a (b)(7)(C) jeopardize his (b)(7)(C) (b)(7)(C) etc.). Given (b)(7)(C) perceived power, (b)(7)(C) was fearful that (b)(7)(C) and/or (b)(7)(C) (b)(7)(C) would retaliate against him.

² There had been several prior sexual assaults on SMU's campus and SMU was being criticized for not timely reporting these incidents. There had been a lot of local press about that, and given this new assault, Associate Provost (b)(7)(C) speculated that if a more general alert was issued, the press would likely ask a lot of questions as to whether this incident was related. Therefore, the Associate Provost (b)(7)(C) believed that SMU had made a choice to diffuse the public scrutiny of this new incident by being more specific about it to show it was not related to any of the prior incidents.

that she could bring (b)(7)(C) into her office and read (b)(7)(C) the riot act. She suggested to (b)(7)(C) that action would be sufficient enough to ensure that (b)(7)(C) would not retaliate.

Of particular note, this is not the first time (b)(7)(C) has engaged in this aggressive behavior. Our investigation has revealed that prior to the incident involving our client, (b)(7)(C) was on a school sponsored trip with the (b)(7)(C) to (b)(7)(C). During the trip, the students (underaged) were allowed to bring alcohol. (b)(7)(C) became intoxicated and tried to sexually assault another (b)(7)(C) student. Fortunately, other students intervened and prevented the attack. Interestingly, (b)(7)(C) used the same threatening tactics with the potential victim by asserting (b)(7)(C) perceived power and influence over (b)(7)(C) student life. We believe this incident was known by SMU personnel, and therefore, put them on notice of (b)(7)(C) violent propensities. Despite having this knowledge, SMU did nothing.

Finally, in the aftermath of the incident involving our client, and during the time period of (b)(7)(C) indictment, our client received an email on behalf of Associate Provost (b)(7)(C) that was sent to all of the (b)(7)(C) (b)(7)(C) expressing concerns about (b)(7)(C) indictment. The email was outrageously inappropriate and further exemplifies the insensitive attitude that SMU had towards our client. *A copy of the email is attached.*

Given these facts, we strongly believe that SMU has violated (b)(7)(C) Title IX protections. Pursuant to the Dear Colleague Letter dated April 2011, “[i]f a school knows or reasonably should know about a student-on-student harassment that creates a hostile environment, title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence and address its effects.” The Dear Colleague Letter further provides “[t]itle IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation.” Finally, the Dear Colleague Letter provides that “[s]chools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her friends,” and “schools must have policies and procedures in place to protect against retaliatory harassment.”

Further, the Dear Colleague Letter states that a “school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school’s internal Title IX investigation.” As described above, Associate Provost (b)(7)(C) clearly violated this provision.

As of (b)(7)(C), SMU had actual knowledge of the existence of a complaint about a sexual assault between two of their students. This single event is sufficient to create a hostile environment and trigger SMU’s responsibilities under Title IX. SMU’s reckless issuance of the campus crime alert created an immediate, hostile environment, which in turn, resulted in immediate retaliatory actions towards (b)(7)(C). Due to the ongoing hostile environment created by SMU, (b)(7)(C) was unable to concentrate on his studies, and he never felt safe on campus. As such, he had no choice but to withdraw from SMU. As a result, (b)(7)(C) has been deprived of the opportunity to benefit fully from the educational programs and activities offered at SMU.

Based on the above, we respectfully request the Office of Civil Rights begin an investigation of the Title IX violations listed above. This Complaint is not exhaustive in any way and our client is available for further discussion of the events above. We have attached a signed copy of our client's Consent Form-For Use of Personal Information.

Please feel free to contact me regarding this matter at your earliest convenience.

Sincerely,

(b)(7)(C)

