



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I

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BOSTON, MASSACHUSETTS 02110-1491

**SEP 30 2008**

Dean Alfred C. Aman, Jr.  
Suffolk University Law School  
120 Tremont Street, Suite 410-D  
Boston, MA 02108-4977

Re. Complaint No. 01-05-2074

Dear Dean Aman:

I am writing to inform you that the Office for Civil Rights (OCR) of the U.S. Department of Education has completed its investigation of the above-referenced complaint, which was filed against Suffolk University Law School (University) and concerned the University's handling of a grievance involving an alleged sexual assault. After a thorough investigation, OCR identified a number of compliance concerns, which the University has agreed to resolve, as explained in the enclosed Letter of Agreement. I want to acknowledge and apologize for, the amount of time that it has taken to complete our investigation.

The OCR complaint was filed by an attorney (Complainant) on behalf of a former University student (Student), who alleged that the University failed to investigate, and promptly and equitably respond to, the Student's complaint that a fellow student sexually assaulted her. The Complainant also asserted that the University's procedures for responding to the Student's complaint did not comply with requirements concerning gender-based discrimination claims.

OCR investigated the complaint pursuant to its responsibility for enforcing Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, and its implementing regulation found at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex, including sexual harassment and sexual assault. The University is subject to the requirements of Title IX because it receives Federal financial assistance from the U.S. Department of Education.

Based on the information provided in the complaint and additional information provided by the Complainant and the Student, OCR identified the following issues for investigation:

Whether the University has established grievance procedures as required by Title IX, and whether the University promptly and equitably responded to the Student's complaint that a fellow student sexually assaulted her. [34 C.F.R. Section 106.8(b)]

## **Investigative Approach and Factual Background**

OCR's investigation included a review of written materials provided by the University, including the University's Title IX procedures and its reports and findings concerning the Student's complaint to the University. OCR also conducted in-person and follow-up telephone interviews with the Complainant and the Student. In addition, OCR conducted an on-site visit to the University during which we interviewed several University administration and faculty members, including the University's former Dean of Students (Dean), the Assistant Dean of Students, and the faculty chairpersons and other members of the University's panels charged with hearing student disciplinary matters.

### *University Procedures*

The University's Student Handbook sets forth the University's general "Notice of Non-Discrimination" and University contacts for addressing "inquiries" concerning Title IX, as well as other non-discrimination statutes. Beyond that notice, the University has established a "Harassment Policy," which describes its prohibition against harassment on the basis of race, color, sex, disability, and other areas. With regard to allegations of sexual harassment, the Handbook specifies the University's "Harassment Complaint and Resolution Procedures," which informs students and others in the University community where to file a complaint (i.e., for students, complaints are filed with the Dean of Students), the information to include in a complaint, and the timeframe for filing (i.e., within 90 days of the incident). Regarding alleged harassment by another student, the procedures explain that the Dean of Students or her/his designee will investigate the allegation promptly and in "a fair and expeditious" manner. The Dean is also to interview the complainant and, if appropriate, witnesses and the alleged perpetrator. The parties are to be informed of the results of the investigation and, if it is determined that misconduct has been committed, appropriate disciplinary action is to be taken, which ranges from expulsion to probation to warnings.

Separate from the University's harassment policy and procedures, the Student Handbook also describes the University's "Student Disciplinary Procedure" that applies to all forms of alleged student misconduct that would constitute a violation of the University's Rules and Regulations. The procedure calls for an investigation by the "investigating members" (or the Investigative Subcommittee) of the Faculty Administrative Committee and, following a finding that there is sufficient information to warrant further proceedings to determine whether the student engaged in sanctionable conduct, referral to the Fact-Finding Subcommittee of the Faculty Administrative Committee for review of the evidence and a determination whether sanctionable conduct has been established. The procedures make clear that "investigating members" shall present the witnesses and evidence they have obtained; the student (alleged perpetrator) also is afforded the opportunity to present evidence and appear on his/her behalf. The Fact-Finding Subcommittee's finding (and recommended sanctions for any sanctionable conduct) is forwarded to the Dean. Finally, a student found to have committed sanctionable conduct may request a formal hearing to contest the Subcommittee's findings to be conducted by a Hearing Committee selected by the Dean.



Both the Harassment Policy and Student Disciplinary Procedure were utilized, as described below, in response to the grievance that the Student filed with the University.

*Alleged Assault and Investigation*

In the complaint to OCR, the Complainant alleged that the University failed to respond appropriately to the Student's report of a sexual assault. Specifically, the Student alleged that a fellow law student (Student A) had raped her on the evening of (b)(6),(b)(7)(C) during her (b)(6); (b)(7)(C) year of law school, that she reported the assault and filed a formal complaint with the Dean, and that the University's subsequent investigation of the complaint was inequitable, untimely, and did not meet Title IX standards.

Both the Student and the University explained to OCR that on (b)(6),(b)(7)(C) the Student initially met with the Dean to report that she had been sexually assaulted. The Student did not, at this meeting, disclose Student A's identity, and the Dean informed her that the University could not conduct an investigation without knowledge of Student A's name. The Dean also told the Student that she had the option of filing a criminal complaint against Student A and that she could take leave or change her course schedule if needed in order to avoid contact with Student A. According to the Dean, during this meeting she also asked if the Student was receiving counseling and was told by the Student that she was seeing a counselor. The Student contacted the Dean the following week to request to withdraw from a course, and the request was granted. On (b)(6),(b)(7)(C) the Student again met with the Dean but again declined to identify Student A.

On (b)(6),(b)(7)(C) the Student met with the Dean a third time, and during this meeting the Student identified Student A. She also provided the Dean with further details of the alleged rape and told the Dean that she wanted to pursue a complaint against Student A. According to the Student, she provided the Dean names of potential witnesses for the purpose of explaining in further detail the relationship between Student A and the Student, as well as providing information about the interactions between Student A and the Student preceding, and subsequent to, the alleged rape on the night of (b)(6),(b)(7)(C). According to the Student, she asked the Dean during this meeting whether there was a need to retain legal counsel, and the Dean replied that legal counsel was not necessary because the University would "handle the complaint process."

The Dean and the Assistant Dean of Students met with Student A and his attorney on (b)(6) (b)(7)(C) (b)(6); (b)(7)(C) to discuss the rape allegation. At this meeting, the Dean advised Student A to have no further contact with the Student. Student A's attorney later provided the Dean with affidavits of witnesses supporting Student A, none of whom were present at the time of the alleged assault. Subsequently, on (b)(6),(b)(7)(C) the Student reported to the Dean that Student A had been staring at her and trying to initiate contact with her during a (b)(6),(b)(7)(C) off-campus event. The Dean met with Student A and his attorney on (b)(6),(b)(7)(C) to discuss this allegation, and Student A denied that he had tried to communicate with the Student.

Following the Dean's contact with the Student and with Student A in (b)(6),(b)(7)(C) it does not appear that the Dean had any further contact with either party regarding the sexual assault complaint and investigation. In fact, the evidence obtained by OCR revealed that the Dean did



not conduct an investigation, or take any further action, in response to the Student's grievance until (b)(6),(b)(7)(C). On that date, the Dean sent a memo to the Chairperson of the Faculty Administrative Committee, referring the sexual assault complaint pursuant to the University's Student Disciplinary Procedure (referenced above). The Faculty Administrative Committee appointed an Investigative Subcommittee to review the information provided by the Dean and to determine whether there was sufficient information to warrant further disciplinary proceedings. By letter dated (b)(6),(b)(7)(C) the Chairperson of the Investigative Subcommittee (Investigative Chair) informed the Student that an Investigative Subcommittee had been convened. The Student explained that until that time, she had heard nothing from the University (since her (b)(6),(b)(7)(C) meeting with the Dean) as to the status of her complaint and was unaware that the matter would be referred to the Student Disciplinary Process. In the (b)(6),(b)(7)(C) letter, the Investigative Chair also requested to schedule an interview with the Student and provided her with copies of five affidavits that Student A had submitted on his behalf. Unclear as to what was expected of her with regard to the pending disciplinary proceedings, the Student hired an attorney, and on (b)(6),(b)(7)(C) the attorney notified the Investigative Subcommittee that the Student would be unavailable for an interview until after the (b)(6),(b)(7)(C) period had concluded in (b)(6),(b)(7)(C). The interview was re-scheduled by (b)(6),(b)(7)(C).

On (b)(6),(b)(7)(C) the Investigative Subcommittee interviewed the Student (the Subcommittee had previously interviewed Student A). During the remainder of (b)(6),(b)(7)(C) the Investigative Subcommittee conducted interviews of witnesses, including witnesses offered by both the Student and Student A. On (b)(6),(b)(7)(C) the Subcommittee issued a memo stating that there was sufficient evidence to warrant further proceedings. Both the Student's and Student A's attorneys were subsequently notified (b)(6),(b)(7)(C) that the Fact-Finding Subcommittee would convene a hearing on (b)(6),(b)(7)(C). Both parties were again asked to submit the names of witnesses, and the members of the Fact-Finding Subcommittee interviewed seven witnesses between (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C).

On (b)(6),(b)(7)(C) the Fact-Finding Subcommittee notified the Complainant of the unanimous determination that the Student's allegations of sexual assault had not been established under the University's evidentiary standard. The Subcommittee filed an official report stating the same conclusion on (b)(6),(b)(7)(C). The Student was not permitted to appeal the Subcommittee's finding.

### Legal Standard

The regulation implementing Title IX at 34 C.F.R. Section 106.8(b) requires recipient schools and universities to adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging discrimination on the basis of sex. Sexual harassment -- generally defined as unwelcome conduct of a sexual nature that has the effect of interfering with, denying, or limiting an individual's ability to participate in or to benefit from any education program or activity -- is a form of discrimination based on sex. Accordingly, Title IX prohibits sexual harassment of students and the Title IX grievance procedure requirements apply to complaints of sexual harassment.

