



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

June 15, 2017

Dr. Jerry L. Falwell, Jr.
President
Liberty University
1971 University Boulevard
Lynchburg, Virginia 24515

Re: OCR Complaint No. 11-16-2231
Administrative Closure Letter

Dear Dr. Falwell:

On November 28, 2016, the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) notified you that we opened an investigation into a complaint filed against Liberty University (the University). The Complainant alleged that the University discriminated on the basis of sex. Specifically, the complaint alleged that the University failed to promptly and equitably respond to complaints, reports, and/or incidents of sexual harassment and sexual violence, including the Complainant's report of sexual assault; and, as a result, students, including the Complainant, were subject to a sexually hostile environment.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any program or activity receiving Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Title IX.

Title IX protects students from sexual harassment, including sexual violence, in connection with a recipient's education programs and activities. Thus, Title IX protections extend to all the academic, educational, extracurricular, athletic, and other programs of the recipient, whether those programs take place on or off the recipient's/university's campus. Title IX protections also extend to third parties regarding sexual harassment or violence, as long as the sexual harassment or violence occurs in connection with a recipient's education programs and activities.

During its investigation, OCR staff obtained information from the Complainant and the University establishing that the Complainant was not a University student, and she did not have any meaningful or sustained contact with the University at the time of the alleged sexual assault. The alleged sexual assault did not occur on the University's campus, and it did not occur in connection with any of the University's education programs or activities. Further, OCR obtained evidence indicating that the individual accused of the alleged sexual assault was employed by the

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness
by fostering educational excellence and ensuring equal access.*

University at the time that the alleged sexual assault occurred. However, the accused's employment alone, given that the Complainant was unaffiliated with the University and that the alleged sexual assault did not occur in connection with any University education program or activity, is insufficient to confer jurisdiction under Title IX such that OCR will continue its investigation.¹ For these reasons, OCR does not have jurisdiction over the Complainant's complaint. Therefore, OCR will take no further action on the complaint, and it is closing its investigation as of the date of this letter.

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

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, please contact Kathy Love, the OCR attorney assigned to this complaint, at (202) 453-6948 or Kathryne.Love@ed.gov.

Sincerely,



Letisha Morgan
Team Leader
District of Columbia Office
Office for Civil Rights

cc: David M. Corry, General Counsel
Ian M. McRary, Associate Counsel

¹ OCR received conflicting information regarding whether the accused individual, in addition to being a University employee, was a graduate student at the time of the alleged sexual assault. Even if true, the accused's status as a graduate student would not obligate the University to respond under Title IX, because the Complainant was not a student, and the alleged sexual assault did not occur in connection with a University education program or activity.