

December 19, 2023

OCR's 2023 Higher Education Resolution Agreements: Session 1

An ATIXA Webinar

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TODAY'S PRESENTERS

Mikiba Morehead, M.A., Ed.D.
Consultant, TNG Consulting

Kim Pacelli, M.Ed., J.D.
Partner, TNG Consulting
Member, ATIXA Advisory
Board

Daniel Swinton, J.D., Ed.D.
Partner, TNG Consulting
President, ATIXA

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Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law, any applicable state or local laws, and evolving federal guidance.



Multiple Complainants alleged a tenured faculty member made numerous sexual comments during his course

Students raised concerns with multiple people, over multiple years, and the behaviors continued and were unaddressed

Non-TIX administrators determined the conduct was not TIX


Formal complaints filed in 2021

" Legacy Policy a (Regs) Procedures "

Faculty member delayed the hearing for 3+ months citing health issues

Once AU reset the case for hearing, Respondent immediately requested to begin his retirement from the institution

Case was then closed, with no hearing



Institutions cannot skip
a preliminary
inquiry/assessment
conducted by trained
personnel

Cases involving
employee respondents
must still go through the
Title IX process

Informal reports or
complaints can often
constitute notice

A dismissal does not
alleviate the obligation
to Stop, Prevent,



Trans female student unofficially began transitioning while enrolled by sharing new pronouns and her chosen name with some students, faculty – the transition was known widely

Multiple faculty and administrators deadnamed or misgendered

Student was told by one faculty member that her gender was invalid outside of LGBTQ+ community

Taft maintained that they were never on notice of discrimination and the student never made a formal complaint

The student was provided unclear reporting information

Policy was unclear re: non-sexual sex-based discrimination

The student feared retaliation after filing a report

6The Dean had suggested faculty would retaliate

Policies must be clear
and apply broadly to
sex-based
discrimination

Centralized policies
streamline to whom
and how to report

Even informal reports
can constitute notice

Offer an investigation
even if also addressing
the harassment in
other ways



Institutions required to excuse student absences for pregnancy needs

Students should be reinstated to the status held prior to leave

Students should have opportunity to make up work

Pregnant students must be able to get clear info about Title IX and rights



Student notified the University of her pregnancy prior to the start of the fall 2020 term and received accommodations

Faculty expressed concern about the student missing class, counted absences against her grades, and put restrictions on late assignments

The student notified the TIXC that faculty had denied her accommodations


TIXC failed to communicate with the student, coordinate support, or provide accommodations

about the of prer 69 studenrs





Complaint alleged that the University discriminates



By [Date], the University will publish that the GSI is open to all eligible students regardless of sex and race and will ensure that all communication and promotional materials it develops related to the GSI effectively communicates that the GSI is available to all students regardless of sex and race

Specifically, the University will update all application and promotional materials as well as pages on its website that reference the GSI to reflect that the GSI is open to all students regardless of sex and race

Significant
assistance analysis

Audit single-sex
programs

All communication
must clearly state

" o p e n t o a l l "

Questions?

Session 2 of OCR's 2023 High
Agreements Webinar is January 9, 2024, from
2:00pm-3:15pm ET

www.atixa.org/events



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