



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

26 FEDERAL PLAZA, SUITE 31 - 100
NEW YORK, NEW YORK 10278

REGION 2

NEW JERSEY
NEW YORK
PUERTO RICO
U.S. VIRGIN ISLAND

February 21, 2024

Sent via email only to rickybanach0@gmail.com

Ricky Banach
rickybanach0@gmail.com

Re: Case Number 02-24-2019 - Salem Community College

Dear Mr. Banach:

On October 19, 2023, the U.S. Department of Education (the Department), Office for Civil Rights (OCR) received the complaint you filed against Salem Community College (the College). You alleged that the College discriminated against you on the basis of sex (Allegation 1) and because you were homeless (Allegation 2) by treating you differently from similarly situated students during the spring 2023 semester. Based on the information you provided in your complaint, supplemental documentation, and during a telephone conversation with OCR staff on November 16, 2023, OCR has determined that it will investigate Allegation 1. However, OCR is dismissing Allegation 2, as explained below.

With respect to Allegation 2, you alleged that students and faculty treated you differently because you were at one point, homeless. OCR enforces federal laws that prohibit discrimination on the bases of race, color, national origin, disability, sex, and age in any program that receives financial assistance from the Department. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990 over complaints alleging discrimination on the basis of disability that are filed against public elementary and secondary education systems and institutions, public institutions of higher education and vocational education, and public libraries. In addition, OCR is responsible for enforcing the Boy Scouts of America Equal Access Act.

OCR does not have jurisdiction over allegations that are not based on race, color, national origin, disability, sex, age and the Boy Scout Equal Access Act. You have not alleged or provided any information from which OCR could infer that the College discriminated on any basis protected under the laws or regulations that OCR enforces. Under Section 108(a) of OCR's [Case Processing Manual](#) (CPM) (July 18, 2022), OCR will dismiss an allegation if OCR determines that it lacks jurisdiction over the subject matter of the allegation. Based on all the facts and information you provided, OCR determined that the alleged acts you described with respect to Allegation 2 do not pertain to discrimination on any of the bases protected by the regulations that OCR enforces. Accordingly, OCR is dismissing Allegation 2 under Section 108(a) of OCR's CPM.

As stated above, OCR will investigate Allegation 1.

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

Case Number 02-24-2019

Page 2 of 2

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681-1688, and its implementing regulations, at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance. As a recipient of federal financial assistance from the Department, the College is subject to Title IX and its implementing regulations.

OCR will investigate the following issue: whether the College discriminated against the Complainant on the basis of sex during the spring 2023 semester in violation of Title IX and its implementing regulations.

Please understand that opening this issue for investigation under Title IX does not mean that OCR has made a decision about the merits. During the investigation, OCR is neutral; OCR will collect and analyze the relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient as required by OCR's CPM. Individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Complaint allegations may be resolved in a variety of ways, including through mediation pursuant to Section 201(b) of OCR's CPM. Under 201(b) mediation, if both parties are interested and if OCR determines that the individual allegations are appropriate for mediation, the parties may voluntarily resolve the complaint allegations through mediation that OCR will facilitate. Note that in such a case OCR does not monitor or enforce the agreement reached between the parties. Please inform OCR if you are interested in resolving this complaint through mediation.

Please be advised that the College 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, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the