

U.S. Dept. of Education Office for Civil Rights
Discrimination Complaint
Filed: Jan 29, 2018

Complaint Filed by:

[Redacted]

Name of person discriminated against:
John Doe [Redacted] (for confidentiality reasons)
Address is same as above
Signatures at end of document

Institution engaged in discrimination:
Williams College
880 Main St.
Williamstown, MA 01267
413-597-3131

I am submitting this official complaint against Williams College to the Office of Civil rights. The Boston OCR office (Patricia Cox) has advised that as Williams College is an institution in Massachusetts the complaint should be submitted to the Boston office, rather than reporting this complaint to the office for the state in which we live.

My complaint falls into 2 broad areas of which the OCR regulations enforce, they are: discrimination on the basis of sex (being a male student and treated differently then female students) and retaliation because of filing a complaint.

"John Doe [Redacted]" was continually and systematically denied his civil rights in a joint-sexual assault case that Williams College brought forth under the auspices of a Title IX investigation, beginning in [Redacted] when he was first made aware of these false allegations, through the final moments of denials of appeals and his requests to submit new evidence and ask for further school intervention which was rejected in [Redacted].

He was treated and punished differently than his female counterparts, and was subjected to a cruel and hostile educational environment, as [Redacted]. He was outcast, publicly ridiculed, [Redacted] response to these false claims [Redacted] and [Redacted] — all of which were violations by the school. As a complainant himself, he was not afforded the same protections under

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Title IX as the female complainants, and his punishments were harsher than the finding of responsibility in the female respondent's case he brought forth.

I am not pursuing legal action through the courts at this time, but reserve that right should I choose to do so at a later date.

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As a result of the personal events outlined within, the school set in motion [redacted] cases against John Doe [redacted] from [redacted] conducted concurrently by a single investigator and presented to two separate hearing panels. Neither [redacted] willingly came forward to raise a complaint in the Title IX process. Despite their hesitation, they were forced to be part of this by Williams College, and from what we can tell based on their public and on the record comments, did so in a forced or coerced manner. We feel their fear of reprisal at the college's hand may have contributed to their changing testimonies from what they initially reported and was the motivation to coach witnesses and even force retaliatory actions through their agents against John Doe [redacted]

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Outlined below are the incidents of discrimination on the basis of sex, Title IX violations, creating a hostile educational environment on the basis of sex and other violations of John Doe [redacted]'s civil and due process rights by Williams College. It should be well-noted that I, John Doe [redacted] and his counsel pointed out all these violations by the College while this process was unfolding, pre-hearing, post-hearing and during the appeal process. The school chose to ignore all of them.

We provide this information here with the necessary evidence and data. In the interest of brevity, we have placed the background and historical overview at the end of this document for your reference, and our claims in the forefront.

Williams College Has A History of Bias Against Males

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Williams College was sued in federal court in [redacted] regarding allegations of anti-male bias by the college and by [redacted]

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Evidence
(Exhibit 1)

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(Exhibit 2 p.62)

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Williams College continued their anti-male bias against another John Doe during his time

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Evidence
(Exhibit 2)

Clery Act Data: Sexual Assault Reports at Williams- Confirm A Hostile Environment For Men

According to statistics available through the Dept. of Education in compliance with the Clery Act, Williams College has one of the highest rates of sexual assault “reporting” of any college in America. In 2014-15 and 2015-16, the most recent years for which data is available, Williams had an average of 14.5 reports of rape each year. This is roughly one report every other week for the 30-week academic year for a community of only 2100 students.

Out of the roughly 1600 4-year colleges in America with more than 750 students, Williams has the 7th highest rate of reports of rape. Williams's rate of 6.68 reports per 1000 people is over 900% higher than the overall rate for all colleges in America.

These numbers would make the dormitories at Williams College one of the most dangerous places in America for women if this many actual sexual assaults took place. So either the college is doing a poor job of protecting women and needs to call in law enforcement for support, or they have created an atmosphere/culture where instances of regretted, consensual sex and other non-sexual assaults are being reported as crimes.

When [redacted] the college is pressuring students to make formal complaints (as has [redacted]), the number of complaints increases and creates a hostile environment for male students. In fact, male students at Williams College are 5x more likely to be accused of sexual misconduct compared to the typical American college male student.

Evidence

(Exhibit 3) CLERY Williams College Rape Rankings 12018.pdf – 7th in Nation

Williams College Discriminates Against Male Complainants

Williams College selectively enforced the no-contact order and created a hostile environment whereby John Doe could not access certain areas [redacted]. When the female complaint violated the order in the exact same way, [redacted] “justified” her actions as inconsequential.

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When John Doe [redacted] a space he and the accuser were entitled to share [redacted] reported him for a violation of a no-contact order. [redacted] then called John Doe [redacted] into her office and now changed the rules and [redacted]

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[redacted]

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[redacted]

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[redacted] as John Doe [redacted] had filed a complaint [redacted] against her but John Doe was never afforded the same benefits or accommodations as a complainant as were the female complainants.

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Evidence
(Exhibit 4)
(Exhibit 5)
(Exhibit 6)

[redacted]

(b)(7)(A)

Williams College treats male complainants differently than female complainants thereby discriminating on the basis of sex

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[redacted]

[redacted]

(b)(7)(A)

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On its face [redacted] is in violation in 2 ways: she is discriminating against John Doe [redacted] when he becomes a complainant and denying him an educational [redacted] opportunity and she has a conflict of interest [redacted] because she is unwilling to make accommodations for him because it is inconvenient for her and for the [redacted].

Evidence
(Exhibit 7)

Males Lose When Charged With Sexual Harassment at Williams

Evidence

(Exhibit 8) Massachusetts Civil Action No: 3;16cv-30184-MAP (p.70, #222)

(Exhibit 9) The Williams Record, student newspaper, dated 12-7-16

williamsrecord.com/2016/12/07/former-student-sues-the-college-for-handling-of-title-ix-complaint/

Hostile Educational Environment For Males in a Sexual Assault Investigation

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The school promised in the preliminary Title IX letter to John Doe [redacted] that this investigative process would proceed “respectfully and thoughtfully” - yet they denied John Doe [redacted] any kind of consideration, including denying his request for more time to prepare initially [redacted].

[redacted] Title IX allows for exceptions to the 60-day measure when circumstances warrant [redacted].

[redacted] Simple and humane requests for a few extra days of prep time [redacted].

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were denied time and again by [REDACTED], in the school's rush to judgment. They were only interested in their process, not a respectful and thoughtful one.

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When John Doe noted his [REDACTED] demands and [REDACTED] had kept him from focusing on preparing, [REDACTED] admonished him to ignore [REDACTED] and focus on the charges at hand, as this "serious" issue was a better use of his time.

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He was promised all kinds of support, yet [REDACTED] was often unavailable for long stretches. When he became a pariah on campus, the school largely ignored his request.

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Evidence

(Exhibit 10)

(Exhibit 11)

(Exhibit 12)

(Exhibit 13)

(Exhibit 35) Williams Policy regarding discipline in non-sexual misconduct cases

Williams College Is Overzealous In Its Pursuit of Finding and Trying Male Students for Alleged Instances of Sexual Assault.

(b)(7)(A)

Evidence

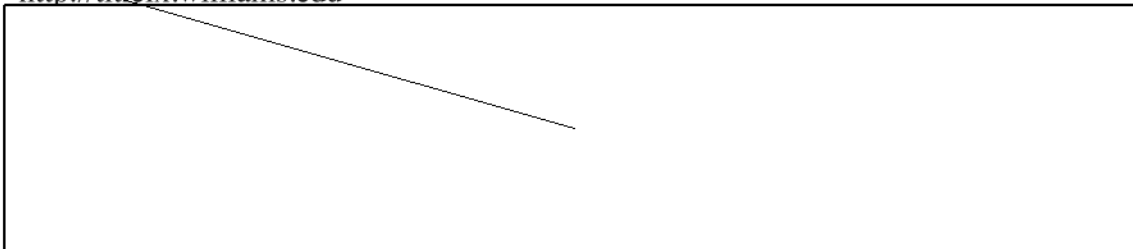
(Exhibit 14)

Williams College Has An Entirely Female Administration Leading The Title IX Efforts, Which Promotes Anti-Male Bias

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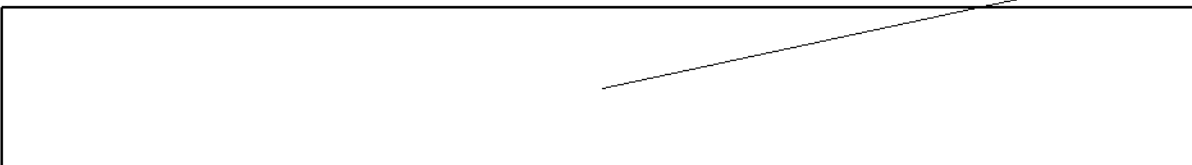
Evidence

<http://titleix.williams.edu>



“The Title IX coordinators should not have other job responsibilities that may create a conflict of interest.”

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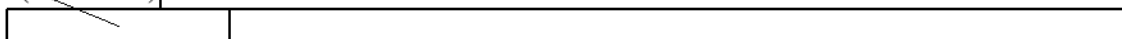


“Relationship abuse is defined as the use of physical force, coercion, threats, intimidation, isolation, or other forms of physical, or sexual abuse toward a partner in a current or former personal, intimate relationship. Relationship abuse also includes manipulation or other forms of emotional abuse if they have the effect of creating fear*, isolation, or restriction of access to resources, education or work. Relationship abuse includes behaviors that are defined as dating and/or domestic violence for purposes of remedies under Massachusetts law, Title IX, and for Clery Act reporting.”

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Evidence

(Exhibit 7)



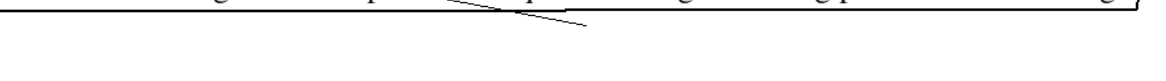
Williams College Definition of Terms-Relationship Abuse (pg.1)

<http://titleix.williams.edu/definition-of-terms/>

“Schools are cautioned to avoid conflicts of interest and biases in the adjudicatory process and to prevent institutional interests from interfering with the impartiality of the adjudication.”

OCR requires that schools have “adequate, reliable, and impartial investigation of complaints.”

Williams College does not provide adequate training to hearing panelists at the college.



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[REDACTED] There
is a pervasive Title IX culture of guilty until proven innocent.

Evidence
(Exhibit 15)

[REDACTED]

Williams College Refused to Investigate Newly Discovered Evidence in Both Cases (Despite Significant Procedural Lapses and Exculpatory Evidence)

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In both cases, significant evidence was discovered prior to the appeal process, and even after a decision is rendered, [REDACTED] has the authority to weigh new evidence and open a new hearing if need be.

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[REDACTED]

The college was more invested in rushing to a wrong result than in doing the due diligence necessary to investigate and determine credibility and the truth.

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Evidence

(Exhibit 16) -

(Exhibit 17) -

(Exhibit 18) -

(Exhibit 19) -

The Investigator Ignored Our Requests for Key Interviews and Follow-up Questions Demonstrating Bias and Prejudice

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Despite our timely and written requests, the investigator either didn't ask our follow-up questions to witnesses that were interviewed, or the investigator failed to share the results of those inquiries in the final report generated. We asked very specific questions that would shed light on confidentiality, retaliation, witness tampering and credibility. This was asked of the investigator well within the limits and scope of both investigations, after the initial interviews in both [REDACTED] cases.

Evidence
(Exhibit 20)

The Panel Was Not Sufficiently Trained and Did Not Adhere to a Preponderance of The Evidence Standard

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The panel was not adequately or appropriately trained for such a complex legal case - and did not adhere to a preponderance of the evidence standard. In a "he said /she said" case - credibility is a big part of a case where there are no witnesses and no evidence. The panel did not take this into account.

[REDACTED]

Where there is no other evidence, credibility is usually the only standard left to weigh guilt, and the panel ignored it.

Evidence
(Exhibit 21)

An investigator who is "free of actual or reasonably perceived conflicts of interest and biases for or against any party" is required.

[REDACTED]

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[Redacted]

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Evidence

(Exhibit 22) – [Redacted]

(Exhibit 23) [Redacted]

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[Redacted]

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(b)(7)(C)

Evidence

(Exhibit 24) [Redacted]

[Redacted]

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(b)(7)(C)

A Single Investigator Creates Cross-Contamination and Prejudice

[Redacted]

(b)(7)(A)

Evidence

(Exhibit 25)

(Exhibit 26) [Redacted]

(b)(7)(A)

***Created Investigative Reports That Were Biased,
Misleading, Flawed and Prejudicial***

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[Redacted]

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(b)(7)(C)

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All of this detail is provided to you to show the bias in which [redacted] prepared the report which becomes the main source of information from which the panel renders a finding. If the report is flawed, the finding will be flawed.

Evidence
Exhibit (27)
[redacted]
(Exhibit 28)
(Exhibit 21)

Williams College's Process for investigating sexual misconduct is fundamentally unfair and discriminatory to men- due to the fact that the vast majority of sexual misconduct complaints are made against men.

- 1) John Doe [redacted] was not advised of specific allegations in advance of his interview with the investigator and could not prepare a proper defense.
- 2) John Doe [redacted] was not allowed to cross-examine his accuser.
- 3) John Doe [redacted] was not allowed to present his side of the story to the panel judging the complaint and therefore didn't have an opportunity to show his credibility in a "he said/she said" situation with no witnesses, no medical evidence and only hearsay by other students [redacted]
- 4) The primary vehicle for the panel to judge the complaint was based on a biased investigator's report. While John Doe [redacted] objected to the report and its characterization of him, the College did not change the report but only said John Doe [redacted] could respond to the report.
- 5) Williams single investigator model is flawed as it puts all of the power of the investigation into the hands of one person and if that person is biased the respondent,

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John Doe [redacted] has no chance for fair and impartial treatment.

6) Williams College uses a panel of employees for sexual misconduct cases, who are coached to put the institution first, but uses a panel of students for other disciplinary matters.

7) The Williams College panel is not adequately trained and as such cannot deliver a fair and equitable decision. This is a travesty of justice when the weight of their decision is one that will forever affect a student's life and future educational opportunities.

(b)(7)(A)

Evidence

(Exhibit 29) [redacted]

(Exhibit 30) Fairness for All Students under Title IX,

Harvard Law Professors describing how the Title IX process is unfair

<https://dash.harvard.edu/handle/1/33789434>

Williams Process for student respondents

<https://dean.williams.edu/policies/disciplinary-process-2/>

“If a school knows or reasonably should know about 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.”

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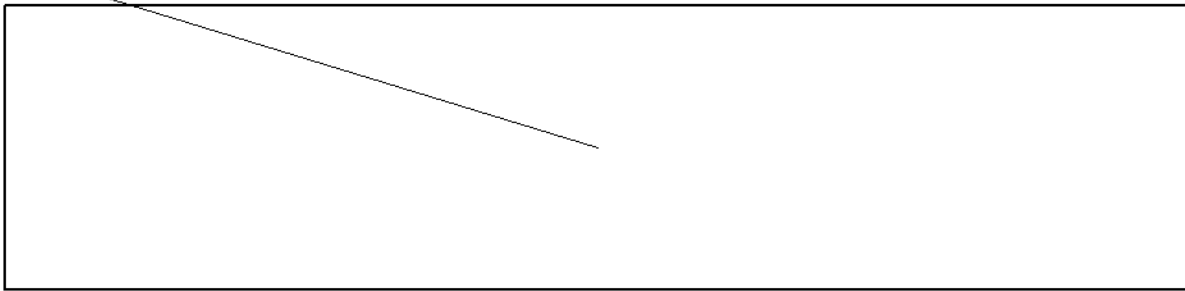
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Evidence

(Exhibit 31) [redacted]

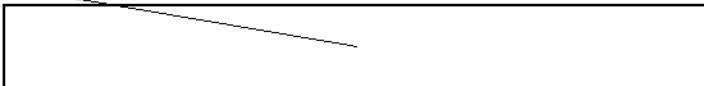
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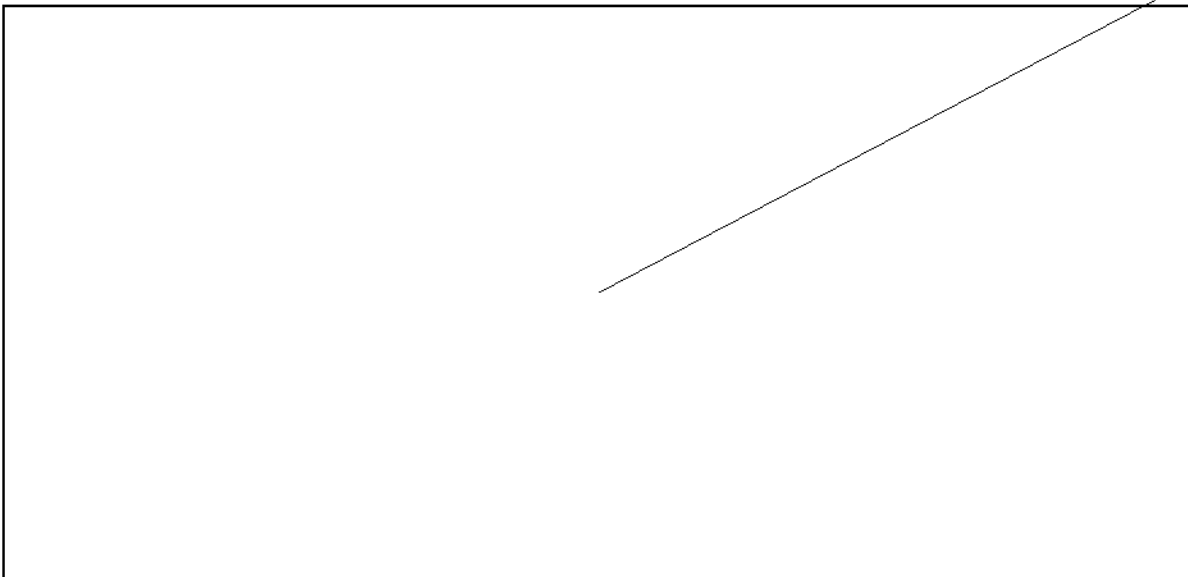


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Evidence
(Exhibit 32)
(Exhibit 33)



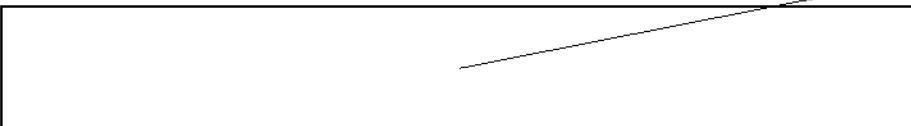
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Evidence.

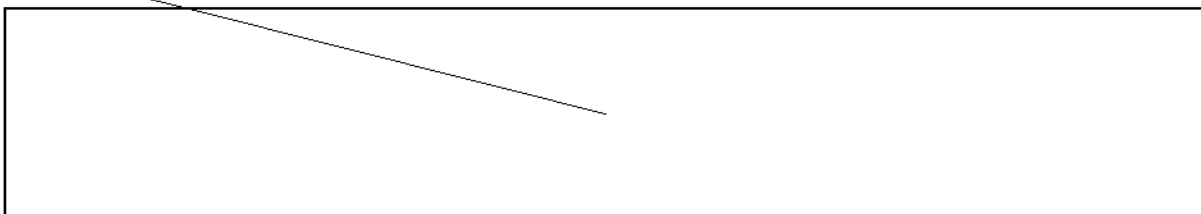
(Exhibit 12)
(Exhibit 13)
(Exhibit 34)



(Exhibit 35) Williams College Disciplinary Process: Issues Other than Sexual Misconduct <https://dean.williams.edu/policies/disciplinary-process/>

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“Title IX protects students in connection with all the academic, educational, extracurricular, athletic and other programs of the school...”



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Evidence
(Exhibit 7)

(b)(7)(A)

Evidence
(Exhibit 11)

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Williams College states that it takes confidentiality seriously and that breaking the confidentiality order will invite a separate disciplinary process.

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Evidence
(Exhibit 36)

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“...school officials will not only take steps to prevent retaliation, but also take strong responsive action if it occurs.”

Williams College was the one to retaliate against complainant John Doe

(b)(7)(A)

Evidence
(Exhibit 7)

(b)(6);
(b)(7)(C)

The [redacted] Williams Code of Conduct requires affirmative consent for all sexual activity. Non consensual sexual intercourse: any sexual intercourse with any object by any person upon any other person without effective consent.”

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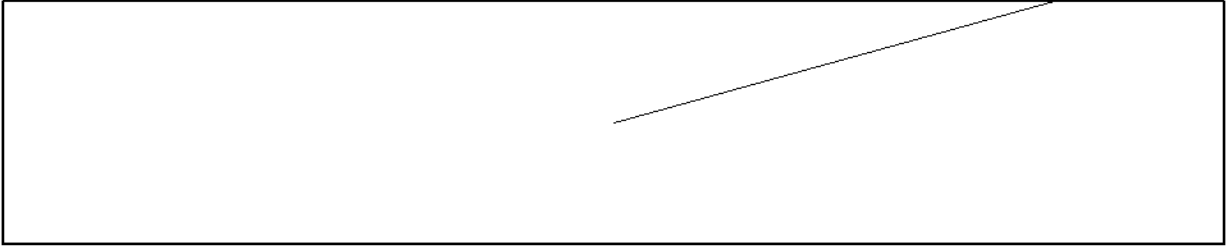
Evidence
(Exhibit 37)

Summary

Williams College has created a gender-biased anti-male atmosphere, based on the Clery Act Data, the amount of lawsuits coming to light and John Doe’s profound and humiliating personal experiences on campus in [redacted]. The school’s blatant use of a single, biased investigator, her conduct of an incomplete and prejudicial investigation, and the school’s violations of Title IX guidelines, their own policy guidelines, and basic tenets to ensure all students safety and basic well-being, is unbecoming of our education system. Their numerous procedural lapses and denial of basic civil rights and due process are too egregious for anyone to overlook. For an entity that is in the “futures business,” they have unfairly charged John Doe with sexual assaults that he did not commit, found him responsible and altered his future in the most damaging way, without regard. In light of the major infractions discussed here, I look forward to working with the Boston OCR office to bring these indiscretions to light, in hopes of having a more positive impact on not only John Doe’s future, but other John Doe’s who have been and will be unfairly treated and discriminated against because of their gender.

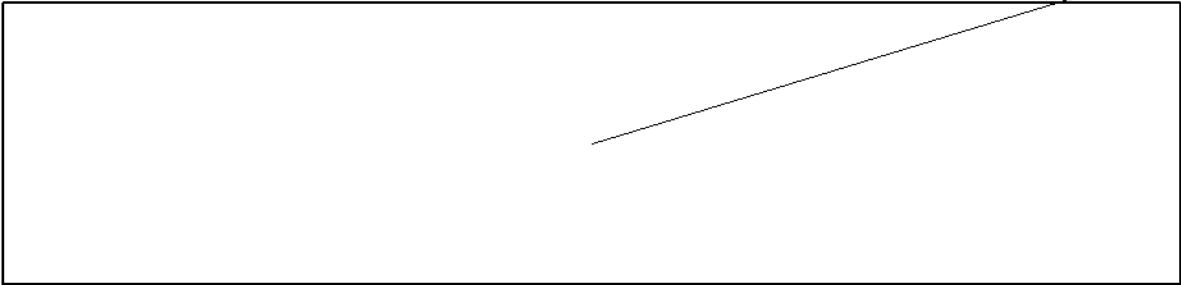
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CRITICAL DATES

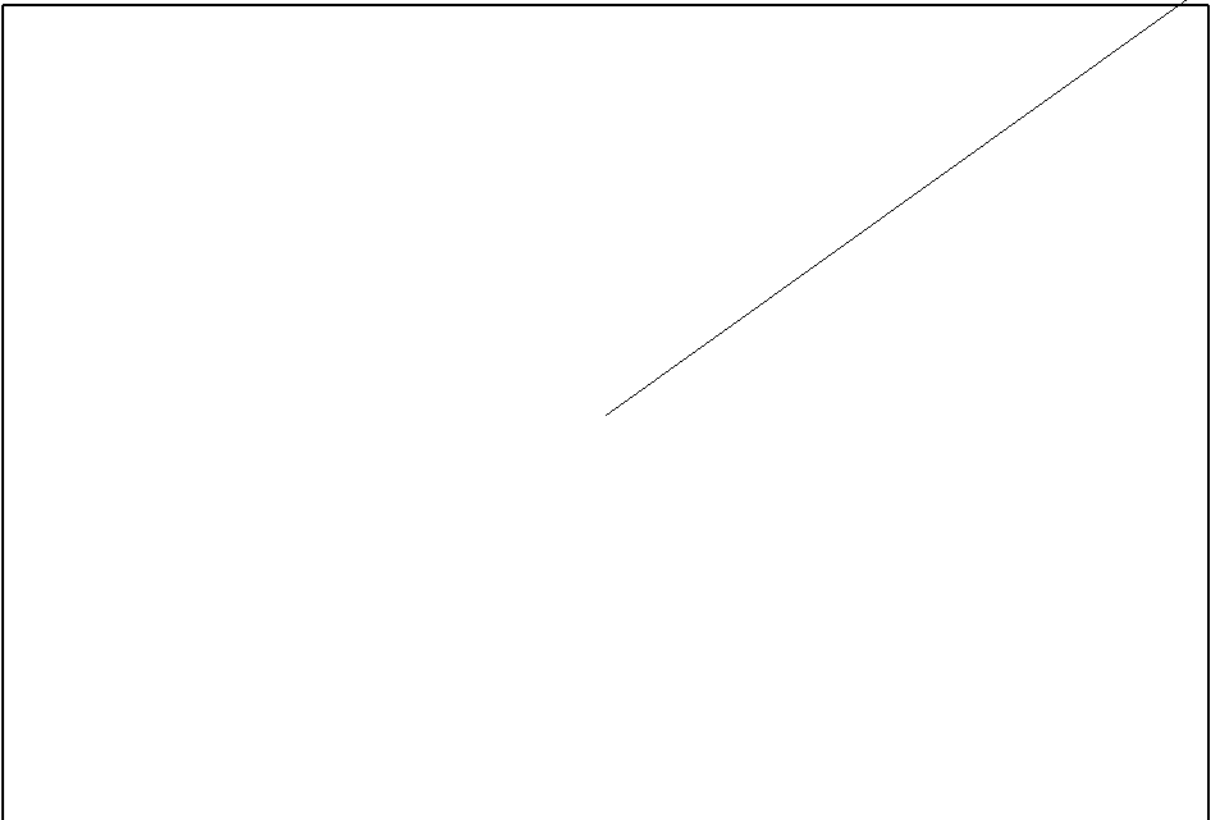
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BACKGROUND

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[Redacted]

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[Redacted]

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[Redacted]

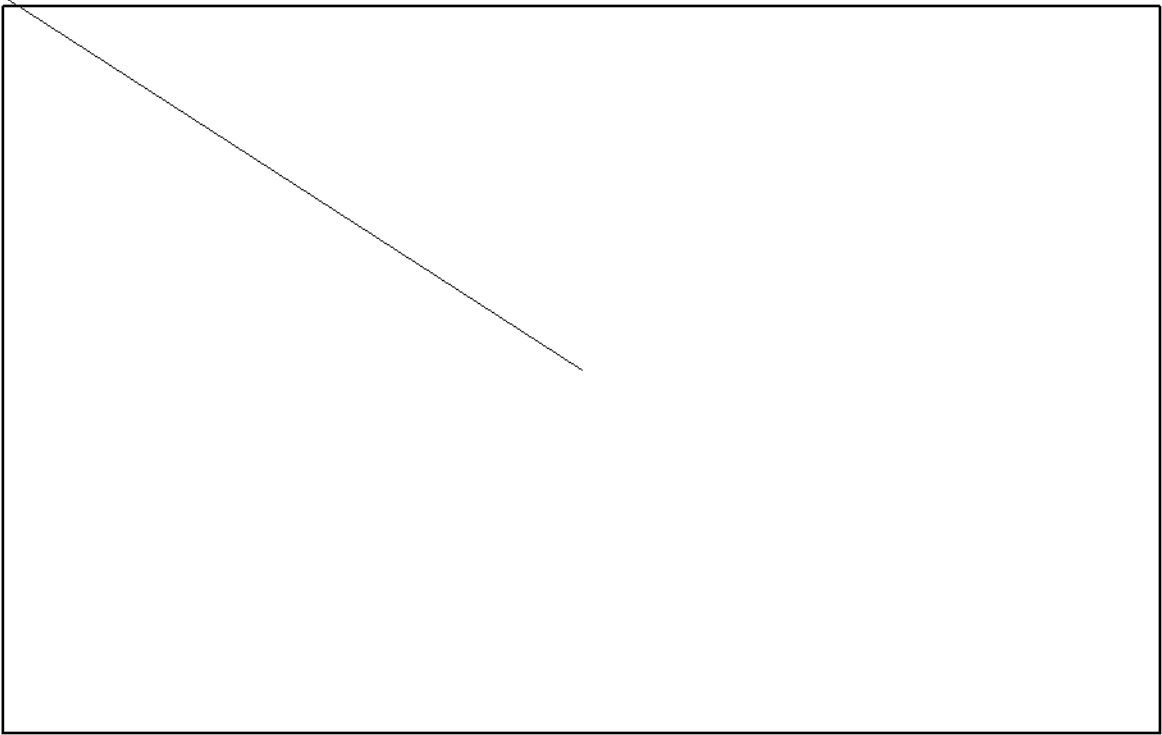
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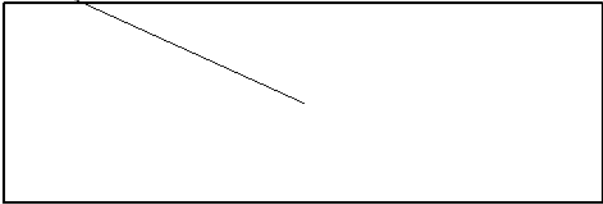
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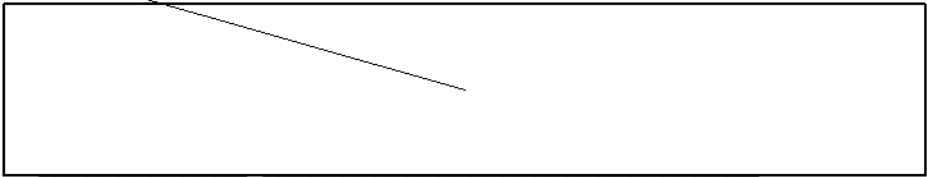
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Date

Signature of Complainant

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Date

Signature of person discriminated against

CONSENT FORM - FOR REVEALING NAME AND PERSONAL INFORMATION TO OTHERS

(Please print or type except for signature line)

Your Name:

Name of School or Other Institution That You Have Filed This Complaint Against: _____

Williams College, Williamstown, MA

- This form asks whether the Office for Civil Rights (OCR) may share your name and other personal information when OCR decides that doing so will assist in investigating and resolving your complaint.
- For example, to decide whether a school discriminated against a person, OCR often needs to reveal that person's name and other personal information to employees at that school to verify facts or get additional information. When OCR does that, OCR informs the employees that all forms of retaliation against that person and other individuals associated with the person are prohibited. OCR may also reveal the person's name and personal information during interviews with witnesses and consultations with experts.
- If OCR is not allowed to reveal your name or personal information as described above, OCR may decide to close your complaint if OCR determines it is necessary to disclose your name or personal information in order to resolve whether the school discriminated against you.

NOTE: If you file a complaint with OCR, OCR can release certain information about your complaint to the press or general public, including the name of the school or institution; the date your complaint was filed; the type of discrimination included in your complaint; the date your complaint was resolved, dismissed or closed; the basic reasons for OCR's decision; or other related information. Any information OCR releases to the press or general public will not include your name or the name of the person on whose behalf you filed the complaint.

NOTE: OCR requires you to respond to its requests for information. Failure to cooperate with OCR's investigation and resolution activities could result in the closure of your complaint.

Please sign section A or section B (but not both) and return to OCR:

- If you filed the complaint on behalf of yourself, you should sign this form.
 - If you filed the complaint on behalf of another specific person, that other person should sign this form.
- EXCEPTION:** If the complaint was filed on behalf of a specific person who is younger than 18 years old or a legally incompetent adult, this form must be signed by the parent or legal guardian of that person.
- If you filed the complaint on behalf of a class of people, rather than any specific person, you should sign the form.

A. I give OCR my consent to reveal my identity (and that of my minor child/ward on whose behalf the complaint is filed) to others to **further OCR's investigation** and enforcement activities.

We need to know the full limits of confidentiality before we can sign section A - please advise

Signature

Date

OR

B. I do not give OCR my consent to reveal my identity (and that of my minor child/ward on whose behalf the complaint is filed) to others. I understand that OCR may have to close my complaint.

Signature

Date

1/28/2018

I declare under penalty of perjury that it is true and correct that I am the person named above; and, if the complaint is filed on behalf of a minor child/ward, that I am that person's parent or legal guardian. This declaration only applies to the identity of the persons and does not extend to any of the claims filed in the complaint.

Exhibit 1

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 2

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 3

UNITID_P	COLLEGE NAME	BRANC	Address	City	State	ZIP	sector_			women_tot	men_tot	Total	RAPE		RAPE	RAPE		
							cd	desc	al				INSTUTIONAL	RAPE AVE			per 1000 people	RAPE RANK
209922001	Reed College	H	Main Ca 3203 SE	PORTLAND	OR	9720281	2	Private r		790	663	1453	35	17.5	12.04	1		
130697001	Wesleyan University	M	Main Ca 229 HIGH	MIDDLE	CT	06459	2	Private r		1677	1461	3138	59	29.5	9.40	2		
161004001	Bowdoin College	M	Main Ca 5700 Col	Brunswi	ME	0401184	2	Private r		895	904	1799	28	14.0	7.78	3		
198385001	Davidson College	M	Main Ca 102	Nor	Davidson NC	28035	2	Private r		900	884	1784	26	13.0	7.29	4		
146427001	Knox College	M	Knox Col 2 E	SOU	GALESBU IL	6140199	2	Private r		826	571	1397	20	10.0	7.16	5		
216287001	Swarthmore College	M	Main Ca 500 COL	SWARTH	PA	1908113	2	Private r		798	783	1581	22	11.0	6.96	6		
168342001	Williams College	M	Main Ca 880 MAI	WILLIAM	MA	0126703	2	Private r		1111	1060	2171	29	14.5	6.68	7		
221519001	Sewanee-The University of the South	M	Main Ca 735 Uni	Sewanee	TN	3738310	2	Private r		921	876	1797	24	12.0	6.68	8		
238333001	Beloit College	M	Beloit Cc 700 COL	BELOIT	WI	5351155	2	Private r		741	617	1358	18	9.0	6.63	9		
121345001	Pomona College	M	Main Ca 550 N	CLAREM	CA	9171163	2	Private r		837	826	1663	22	11.0	6.61	10		
157818001	Transylvania University	M	Transylv 300 N	BLEXINGT	KY	4050817	2	Private r		612	441	1053	13	6.5	6.17	11		
131450001	Gallaudet University	M	Main Ca 800 FLOI	WASHIN	DC	2000236	2	Private r		879	598	1477	18	9.0	6.09	12		
121257001	Pitzer College	M	Pitzer Cc 1050 N	CLAREM	CA	9171161	2	Private r		608	459	1067	13	6.5	6.09	13		
107080001	Hendrix College	M	Main Ca 1600 W/	CONWAY	AR	7203230	2	Private r		708	630	1338	16	8.0	5.98	14		
112260001	Claremont Mckenna College	M	Main Ca 500 E	9T CLAREM	CA	9171164	2	Private r		652	697	1349	16	8.0	5.93	15		
230959001	Middlebury College	M	Main Ca OLD CH	MIDDLE	VT	05753	2	Private r		1363	1195	2558	30	15.0	5.86	16		
221351001	Rhodes College	M	Main Ca 2000 No	Memphi	TN	3811216	2	Private r		1167	896	2063	24	12.0	5.82	17		
166018001	Hampshire College	M	HAMPSP- 893 WE	SAMHERS	MA	0100233	2	Private r		857	553	1410	16	8.0	5.67	18		
160977001	Bates College	M	Main Ca 2	ANDREW	CT	04240	2	Private r		908	884	1792	20	10.0	5.58	19		
153384001	Grinnell College	M	Main Ca 1432	EAST	GRINNELL IA	5011216	2	Private r		934	771	1705	19	9.5	5.57	20		
216524001	Ursinus College	M	Main Ca 601 E	N COLLEGE	PA	1942610	2	Private r		863	780	1643	18	9.0	5.48	21		
182670001	Dartmouth College	M	Dartmou North	M HANOVE	NH	0375535	2	Private r		3031	3319	6350	68	34.0	5.35	22		
130590001	Trinity College	M	Main Ca 300 SUN	HARTFO	CT	0610631	2	Private r		1148	1249	2397	25	12.5	5.21	23		
237358001	Davis & Elkins College	M	Main Ca 100 CAN	ELKINS	WV	2624139	2	Private r		446	350	796	8	4.0	5.03	24		
164465001	Amherst College	M	Main Ca Boltwo	AMHERS	MA	0100250	2	Private r		904	891	1795	18	9.0	5.01	25		
115409001	Harvey Mudd College	M	Main Ca 301 Plat	Claremo	CA	9171139	2	Private r		382	443	825	8	4.0	4.85	26		
197133001	Vassar College	M	Main Ca 124 RAY	POUGHK	NY	12604	2	Private r		1368	1067	2435	23	11.5	4.72	27		
133492001	Eckerd College	M	Main Ca 4200	54 SAINT	PE FL	3371147	2	Private r		1256	767	2023	19	9.5	4.70	28		
202514001	Defiance College	M	Main Ca 701 N	CL DEFIANC	OH	43512	2	Private r		363	388	751	7	3.5	4.66	29		
239017001	Lawrence University	M	Main Ca 711 E	B APPLETC	WI	54911	2	Private r		854	703	1557	14	7.0	4.50	30		
216667001	Washington & Jefferson College	M	Main Ca 60 S	LIN WASHIN	PA	15301	2	Private r		654	696	1350	12	6.0	4.44	31		
212674001	Gettysburg College	M	Main Ca 300 N	W GETTYS	PA	1732514	2	Private r		1289	1158	2447	21	10.5	4.29	32		
153144001	Coe College	M	Main Ca 1220 FIR	CEDAR	IA	5240250	2	Private r		822	589	1411	12	6.0	4.25	33		
204909001	Ohio Wesleyan University	M	Main Ca 61 S	SAN DELAWA	OH	4301523	2	Private r		877	794	1671	14	7.0	4.19	34		
128902001	Connecticut College	M	Connect 270 MOI	NEW LOI	CT	06320	2	Private r		1197	725	1922	16	8.0	4.16	35		
210669001	Allegheny College	M	Main Ca 520 N	M MEADVI	PA	1633539	2	Private r		1041	890	1931	16	8.0	4.14	36		
237057001	Whitman College	M	Whitma 345 BOY	WALLA	WA	99362	2	Private r		853	617	1470	12	6.0	4.08	37		
212911001	Haverford College	M	Main Ca 370 W	L HAVERF	PA	1904113	2	Private r		635	598	1233	10	5.0	4.06	38		
161086001	Colby College	M	Main Ca MAVFL	O WATERV	ME	04901	2	Private r		970	887	1857	15	7.5	4.04	39		
232025001	Emory & Henry College	M	Main Ca 30461	G Emory	VA	2432709	2	Private r		564	553	1117	9	4.5	4.03	40		
162654001	Goucher College	M	Main Ca 1021	DU BALTIM	MD	2120427	2	Private r		1536	605	2141	17	8.5	3.97	41		
120254001	Occidental College	M	Occiden 1600	CA LOS AN	CA	9004133	2	Private r		1146	877	2023	16	8.0	3.95	42		
153162001	Cornell College	M	Main Ca 600 FRS	Mount	VIA	5231410	2	Private r		530	507	1037	8	4.0	3.86	43		
126678001	Colorado College	M	Colorad. 14 E	CAC	COLORA CO	80903	2	Private r		1144	987	2131	16	8.0	3.75	44		

Exhibit 4

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 5

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 6

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 7

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 8

rudimentary due process safeguards. As the accused (male) is disproportionately affected by the sexual misconduct proceedings, the policies disproportionately adversely affect male students.

222. Males invariably lose when charged with sexual harassment at Williams provides a verifiable causal connection between flawed proceedings and allegations of gender bias.

223. As a result of Defendant's enforcement of this biased policy and failure to comply with the other requirements under Title IX with respect to disciplinary procedures, Plaintiff has been denied the benefits of Williams' educational program in violation of Title IX.

COUNT II BREACH OF CONTRACT

224. Plaintiff re-alleges and reasserts the allegations set forth above as if fully set forth herein.

225. Plaintiff and Defendant had a commercial contractual relationship, either express or implied. Such contract was formed on the one hand by Plaintiff's payment (or payment made on his behalf) of tuition and fees to Williams and on the other, by the terms contained in the Student Handbook, the College Catalogue, and other College materials.

226. Plaintiff had a reasonable expectation that Defendant would adhere to the terms of such contract, as contained in the Disciplinary Procedures and other College materials.

227. By attending a college that accepts federal funding, Plaintiff further had a reasonable expectation that Defendant's stated and implemented procedures would

Exhibit 9

Former student sues the College for handling of Title IX complaint

December 7, 2016 – The Williams Record

Neena Patel, News Editor

16 comments

(b)(6); (b)(7)(C) Last month, a former student filed a civil action against the College for alleged Title IX violations. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) In addition to Title IX of the Education Amendments of 1972, the plaintiff and his lawyer, (b)(6); (b)(7)(C) claim that the College failed to comply with the Massachusetts Civil Rights Act, the Massachusetts Unfair and Deceptive Practices Act and the right to privacy under Family Educational Rights and Privacy Act (FERPA). It also asserts that the College did not follow principles of “good faith, fair dealing, due process and fundamental fairness” and committed “negligence, assault and defamation.”

The lawsuit refers to the plaintiff as John Doe for privacy. Doe was a full time student at the College from September 2011 to spring 2016, when he was scheduled to graduate.

From 2013 to 2015, according to the complaint, Doe was in an exclusive romantic relationship with a former student who became an employee of the College, referred to as Jane Smith in this article for privacy. Doe claims damages resulting from allegedly harmful actions by the College that resulted in him not receiving his degree and have produced consequences to his academic and career future, as well as earning potential and reputation.

(b)(6); (b)(7)(C) According to the civil action filing, Smith slapped Doe and took his phone after an incident at a party where he was dancing with someone else. After this event, Smith allegedly emailed former Dean of the College (b)(6); (b)(7)(C), stating that she had written essays for Doe in violation of the College’s Honor Code.

(b)(6); (b)(7)(C) The action states the faculty chair of the Honor Committee should have been contacted, not Bolton. per the terms of the faculty handbook at the time (b)(6); (b)(7)(C) alleg-edly did not direct the information the employee provided to the Honor Committee and, according to the action, (b)(6); (b)(7)(C) allowed her impartiality to be compromised, demonstrating an unfair bias against John.” The action also states that (b)(6); (b)(7)(C), by not taking action to discipline Smith, ignored the issue a of a relationship between a student and employee, which College’s employee handbook says “are in almost all cases inappropriate.”

(b)(6); (b)(7)(C) According to the action, (b)(6); (b)(7)(C) texted “private educational information” regarding Doe to Smith. Doe claims this is a violation of privacy under FERPA and state law. The action also cites two other alleged communications between (b)(6); (b)(7)(C) and Smith that Doe claims are a violation of FERPA.

(b)(6); (b)(7)(C) The College’s Honor Committee held a hearing and Doe was charged with violating the honor code, in one of three allegations. The committee recommended expulsion and the action claims that if (b)(6); (b)(7)(C) had not influenced the committee, the outcome of the decision would have been different. Doe was eventually cleared of accusations in a hearing that (b)(6); (b)(7)(C) did not sit in on.

(b)(6); (b)(7)(C) Doe, through his attorney, sent Smith a cease and desist letter that copied (b)(6); (b)(7)(C). The complaint states that Doe met with (b)(6); (b)(7)(C) and the College Counsel and “expressed deep concern that Williams was protecting an employee who had assaulted and harassed him.” According to the lawsuit, no action was taken after this. The College put a mutual no-contact order in place between Doe and Smith. (b)(6); (b)(7)(C) says she then made a formal Title IX complaint against the College, (b)(6); (b)(7)(C) and Smith. (b)(6); (b)(7)(C) then allegedly sent an email to

(b)(6);
(b)(7)(C)

(b)(6);
(b)(7)(C)

Doe indicating that she would like to meet with him to discuss the Title IX complaint that was issued, and that the Title IX coordinator, [REDACTED] and she would oversee it.

(b)(6);
(b)(7)(C)

[REDACTED] email begs the question why Williams persists in allowing such a partial school official, expressly named in the Title IX complaint to the Title IX coordinator as failing to adequately address John's concerns about the dating violence and harassment, to take the lead with John's Title IX complaint," the complain says.

(b)(6);
(b)(7)(C)

The complaint says Doe emailed [REDACTED] back asking if she could recuse herself from these proceedings. She allegedly indicated that the email was in reference to the cease and desist letter that the employee received and not the Title IX complaint, and also that she was willing to let [REDACTED] handle the complaint and to recuse herself from it.

(b)(6);
(b)(6);
(b)(7)(C)

(b)(6);
(b)(6);
(b)(7)(C)

According to the action, Smith issued a counter-complaint against Doe that stated, "he 'displayed abusive behavior towards her during the past two years.'" Doe then allegedly emailed [REDACTED] the College's outside investigator, who eventually directed him to [REDACTED] asking why there was or wasn't an investigation running on the Title IX complaint made against him. [REDACTED] responded by stating, according to the action, "'Title IX protects employees as well as students. [REDACTED] is investigating both your complaint against [Smith] and [Smith's] complaint against you. The college's policies prohibit harassment by students and by employees.'"

(b)(6);
(b)(7)(C)

Doe responded with an email, according to the action, stating that he did not get a clear answer as to why the employee's complaint was not considered an act of re-taliation and asking if that could be clarified. [REDACTED] allegedly responded by stating that the employee can file a complaint but the investigation decides whether or not it is legitimate.

The action says that Title IX does not protect employees against students. It states, "The only context in which a Title IX complaint by an employee may be contemplated is when there is a complaint of employment discrimination filed against recipients of federal financial assistance, i.e. the educational institution. Therefore, [Smith] could complain against Williams College but not against John." If employees file Title IX sexual harassment complaints with Office of Civil Rights, they are supposed to be processed with the Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance.

(b)(6);
(b)(7)(C)

(b)(6);
(b)(6);
(b)(7)(C)

(b)(6);
(b)(7)(C)

Doe walked at graduation but was not handed his degree. He also asked [REDACTED] if he could receive transcripts for interviews in June, and she allegedly forwarded his request to [REDACTED] who, according to the complaint, had still not released them in August. In September, [REDACTED] who took over as dean of the College after [REDACTED] departed in June, allegedly stated that parties in sexual misconduct cases could not receive transcripts or tapes for interviews and only sent two out of the three of them. The above messages were forwarded to the College Counsel, which stated that the College's procedures for sexual misconduct disciplinary proceedings do not give interview transcripts to the parties involved, and that they are not given to an adjudication panel, and are not part of the record that eventually makes the decisions. The complaint says that, under FERPA, Doe has the right to inspect his educational records but not receive them.

(b)(6);
(b)(7)(C)

Doe allegedly received the report in September and it stated that he was being investigated for the following violations: 2015–2016 Relationship Abuse policy, 2013–2014 Student Code of Conduct provision regarding non-consensual sex and the 2014–2015 Dating and Domestic Violence Policy. The report allegedly did not include the 2013-2014 Student Code of Conduct. Doe submitted a response that [REDACTED] says "attacked the report for being biased against John as incorrect policies were applied, critical policies were not included as was John's Title IX complaint letter, statements from a partial Dean were included, and the term 'testify' was used to describe [Smith's] statements."

(b)(6);
(b)(7)(C)

(b)(6);
(b)(7)(C)

After the response to the investigator's report period had expired, [redacted] allegedly wrote to Doe saying that the report stated the relevant College policies in effect and specific relationship abuse wording was added to the code of conduct in October of 2015 and that "the existing code of conduct could not be applied to the types of misbehavior that have been alleged."

The action states that [redacted] statement is not an accurate representation because the changes in language were monumental changes to the policy.

(b)(6);
(b)(7)(C)

Doe and Smith both produced second written responses to the new materials that they presented in their first responses. Doe was allegedly not given the employee's second response.

A hearing panel met consisting of [redacted] and [redacted]. They allegedly found Doe responsible for "violating the Code of Conduct by engaging in non-consensual sex." The action says, "there was woefully insufficient evidence to sustain the Hearing Panel's findings."

Violations were cited for the following counts: Violation of 20 U.S.C., Breach of Contract, Breach of the Implied Covenant of Good Faith and Fair Dealing, Estoppel and Reliance, Massachusetts Unfair and Deceptive Practices Act, Negligence, Violation of Fundamental Fairness, Massachusetts Civil Rights Act, Assault, Defamation and Violation of Privacy and Injunctive Relief and Declaratory Judgment.

It requests that if "this court find no remedy at law available to the Plaintiff, Plaintiff pleads unjust Enrichment against Defendant" and asks for "approximately \$32,300 in the form of payments towards four years' tuition, costs and fees paid by Plaintiff or on his behalf."

Rossi she said that she would not comment on the action at this time. [redacted] and [redacted] both said they could not comment on an ongoing litigation because privacy is required by law.

"The College does not comment on ongoing litigation," [redacted] media relations director for the College, said.

"The College is fully committed to addressing all aspects of sexual misconduct on campus," [redacted] said. "This involves a great deal of prevention work on multiple fronts, as well as an adjudication process that is equitable and holds those who harm others accountable."

I cannot comment on this specific lawsuit, not only because it is pending but also because we hold all matters of student discipline as confidential. However I can affirm that the College is committed to ensuring the safety of our community, and are continually seeking ways to further strengthen our work in sexual violence prevention and response."

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Exhibit 10

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(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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(b)(7)(A)

of the Freedom of Information and Privacy Act

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(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 11

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 12

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 13

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 14

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 15

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 16

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 17

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 18

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 19

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 20

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 21

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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(b)(7)(A)

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(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 22

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 23

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

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(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 24

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(6); (b)(7)(C)

of the Freedom of Information and Privacy Act

Exhibit 25

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Exhibit 26

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 27

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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(b)(7)(A)

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Exhibit 28

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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Exhibit 29

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(b)(7)(A)

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Exhibit 30



DIGITAL ACCESS TO SCHOLARSHIP AT HARVARD

Fairness For All Students Under Title IX

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Citation	Elizabeth Bartholet, Nancy Gertner, Janet Halley & Jeannie Suk Gersen, Fairness For All Students Under Title IX (Aug. 21, 2017).
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(Article begins on next page)

Fairness for All Students

FAIRNESS FOR ALL STUDENTS UNDER TITLE IX

Elizabeth Bartholet, Nancy Gertner, Janet Halley and Jeannie Suk Gersen

August 21, 2017

We are professors at Harvard Law School who have researched, taught, and written on Title IX, sexual harassment, sexual assault, and feminist legal reform. We were four of the signatories to the statement of twenty eight Harvard Law School professors, published in the Boston Globe on October 15, 2014, that criticized Harvard University's newly adopted sexual harassment policy as "overwhelmingly stacked against the accused" and "in no way required by Title IX law or regulation."

We welcome the current opportunity to assess the response to campus sexual harassment, including sexual assault. In the past six years, under pressure from the previous Administration, many colleges and universities all over the country have put in place new rules defining sexual misconduct and new procedures for enforcing them. While the Administration's goals were to provide better protections for women, and address the neglect that prevailed before this shift, the new policies and procedures have created problems of their own, many of them attributable to directives coming from the Department of Education's Office for Civil Rights (OCR). Most of these problems involve unfairness to the accused; some involve unfairness to both accuser and accused; and some are unfair to victims. OCR has an obligation to address the unfairness that has resulted from its previous actions and the related college and university responses.

In 2011, OCR issued a "Dear Colleague Letter" which gave colleges and universities instructions on how to regulate this area. That document was never opened for notice and comment and as a result does not itself have the force of law and could not add new obligations for regulated parties. Nevertheless the previous Administration's OCR threatened colleges and universities with the institution-wide cutoff of all federal funding if they did not

Fairness for All Students

comply with the Dear Colleague Letter's instructions, including ones that had never before been considered legally required by Title IX. Terrified, administrators not only complied; they over-complied. Below is a list of some of the most severe problems left in the wake of this overcorrection.

Definitions of sexual wrongdoing on college campuses are now seriously overbroad. They go way beyond accepted legal definitions of rape, sexual assault, and sexual harassment. They often include sexual conduct that is merely unwelcome, even if it does not create a hostile environment, even if the person accused had no way of knowing it was unwanted, and even if the accuser's sense that it was unwelcome arose after the encounter. The definitions often include mere speech about sexual matters. They therefore allow students who find class discussion of sexuality offensive to accuse instructors of sexual harassment. They are so broad as to put students engaged in behavior that is overwhelmingly common in the context of romantic relationships to be accused of sexual misconduct. Overbroad definitions of sexual wrongdoing are unfair to all parties, and squander the legitimacy of the system.

Though OCR did not require schools to treat accused students unfairly in the investigation and adjudication process, its tactics put pressure on them to stack the system so as to favor alleged victims over those they accuse. The procedures for enforcing these definitions are frequently so unfair as to be truly shocking. Some colleges and universities fail even to give students the complaint against them, or notice of the factual basis of charges, the evidence gathered, or the identities of witnesses. Some schools fail to provide hearings or to allow the accused student's lawyer to attend or speak at hearings. Some bar the accused from putting questions to the accuser or witnesses, even through intermediaries. Some schools hold hearings in which the accuser participates while remaining unseen behind a partition. Some schools deny parties the right to see the investigative report or get copies for their lawyers for preparing an appeal. Some schools allow appeals only on very narrow grounds such as new evidence or procedural error, providing no meaningful check on the initial decisionmaker.

Fairness for All Students

Moreover, many schools improperly house the functions of investigation and adjudication in dedicated Title IX offices. These are compliance offices with strong incentives to ensure the school stays in OCR's good graces to safeguard the school's federal funding. Title IX officers have reason to fear for their jobs if they hold a student not responsible or if they assign a rehabilitative or restorative rather than a harshly punitive sanction. Many Title IX offices run all the different functions in the process, acting as prosecutor, judge, jury, and appeals board. Appeals are to an administrator in the institution's Title IX apparatus, rather than to a person who is structurally independent and not invested in the outcome. Some Title IX officers even take on the role of advisor to an accuser through the process of complaint, investigation, adjudication, or appeal, which means they are not neutral. They do so, moreover, without providing analogous support to the accused.

Compounding matters, many institutions follow the "investigator only" or "single investigator" model, wherein the investigator is also the adjudicator. In this model, there is no hearing. One person conducts interviews with each party and witness, and then makes the determination whether the accused is responsible. No one knows what the investigator hears or sees in the interviews except the people in the room at the time. This makes the investigator all-powerful. Neither accuser nor accused can guess what additional evidence to offer, or what different interpretations of the evidence to propose, because they are completely in the dark about what the investigator is learning and are helpless to fend off the investigator's structural and personal biases as they get cooked into the evidence-gathering.

These common arrangements together offend two requirements of fairness: *neutral* decisionmakers who are independent of the school's compliance interest, and *independent* decisionmakers providing a check on arbitrary and unlawful decisions.

These substantive and procedural fairness issues are exacerbated by OCR's requirement that institutions use a preponderance of the evidence standard rather than a higher standard such as clear and convincing evidence. To be sure, our legal system uses the preponderance standard – which means "more

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likely than not” – in many important fora, such as civil trials. But civil trials have many features that have been developed over centuries to produce an overall system fair to both parties, including an independent and neutral initial decisionmaker and appeal body, legal counsel, a hearing with rules of evidence, and a right of appeal that relates to all aspects of the decision. Dropping the preponderance standard into the severely skewed playing field of the new OCR-inspired procedures risks holding innocent students responsible.

It is extremely important for colleges and universities to have robust policies and procedures to address sexual wrongdoing on campus. Schools’ struggles with providing fair procedures have led some observers to throw up their hands and propose 1) that schools should not decide these cases at all; 2) that schools should toss these cases off to law enforcement instead; and 3) that schools should be legally required to refer all reports of criminal acts to law enforcement regardless of whether the schools also adjudicate the cases (sometimes called “mandatory referral”). These proposals are irresponsible. A school must be able to discipline students for violating its conduct codes and protect its students from harm, whether or not the violations are also crimes. Often the conduct involved is not a crime – for example, much sexual harassment as defined by law is not criminal conduct. And even if a violation of the school’s policy is also a crime, schools should be free to discipline the offending student without satisfying the very strict evidentiary standards that govern in criminal law and make it so hard to convict. Also, requiring schools to report all reported sexual misconduct to the police without the alleged victim’s permission interferes with that person’s autonomy, given the important privacy and relationship issues at stake.

OCR must continue to recognize the responsibility of colleges and universities to address sexual harassment and sexual assault in their communities. But in shouldering their burden, schools owe fairness to *all* students: the accuser and the accused. And they owe it to all their students to develop substantive definitions of sexual misconduct that don’t invite arbitrary enforcement against innocuous conduct. Only when schools adopt both fair procedures and fair substantive definitions will the sanctions they levy send the message that sexual misconduct is unacceptable. Now, instead, they send a dreadful

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message, that fairness is somehow incompatible with treating sexual misconduct seriously. That message is wholly unnecessary.

In the next phase of reform, it is crucial that OCR make clear that schools must treat all students fairly. To that end, some basic principles of fairness should be observed. Schools must:

Return to the Supreme Court's definition of sexual harassment: unwelcome sexual conduct that is sufficiently severe or pervasive to interfere with the victim's educational opportunity. Repeatedly the Court has said that a reasonable person test must be applied in determining whether conduct was wrongful, to provide a necessary check on arbitrary accusations. To impose liability, the decisionmaker must find that a reasonable person in the accuser's position would experience the incident to be abusive, and also that a reasonable person in the defendant's position would have known that the conduct was unwelcome. These traditional reasonable person limits are central to preserving academic freedom and individual autonomy.

Provide parties with the complaint and inform them of the factual basis of the complaint, the evidence gathered, and the identities of witnesses.

Provide a hearing and allow the parties the opportunity to hear the testimony in real time and to offer amendments and corrections.

Allow parties to bring counsel to any interviews and hearings, and allow counsel to speak to assert the parties' rights.

Allow parties to ask questions of other parties and witnesses in a meaningful way, even if through intermediaries rather than face-to-face or in direct confrontation.

Use a preponderance of the evidence standard *only if* all other requirements for equal fairness are met.

Fairness for All Students

Provide parties copies of reports produced by investigators and adjudicators.

Separate the Title IX compliance officer role from the roles of advising individual students considering filing complaints, investigation, adjudication, and appeal of individual cases.

Separate the functions of investigator, adjudicator, and appeal into different individuals or panels independent of each other, and not invested in the outcome of previous stages of the case.

Allow appeals on any grounds, rather than limit them narrowly.

We urge OCR to thoughtfully undertake much-needed refinement or replacement of the guidance provided in the 2011 Dear Colleague Letter, to better protect the rights of sexual assault victims and accused students along the lines we recommend here.

Most of the procedural principles listed above are reflected in the procedures that Harvard Law School adopted in 2015, with OCR's approval. We attach those procedures to this statement.

Additionally, OCR should abandon its senseless blanket disapproval of mediation or restorative approaches to accusations of sexual misconduct. An exclusively disciplinary or punitive approach needlessly deprives victims of options that may benefit them in the pursuit of equal educational opportunity.

Finally, it is urgent that OCR undertake to study the disproportionate impact on racial minorities of discipline for campus sexual misconduct, just as OCR has previously done for discipline in elementary and secondary schools. Our experience as lawyers and researchers in this area leads us to fear a significant risk of race discrimination in college discipline cases. That risk must be transparently analyzed as part of the project of enforcing sex discrimination law.

Fairness for All Students

The unfairness that currently infects colleges and universities' procedures is in no way necessary to address the problem of sexual misconduct. Indeed, it is counter-productive, undermining the legitimacy of the important project of addressing sexual misconduct. To address sexual misconduct effectively, appropriate definitions of misconduct must be developed that avoid risk to the relational autonomy of students and academic freedom in the classroom. Equally important is the development of procedures providing fair treatment to both accuser and accused. That is the challenge of the next crucial stage of reform in the service of Title IX's mandate against sex discrimination in education.

Attachments:

Elizabeth Bartholet *et al.*, *Rethink Harvard's Sexual Harassment Policy*, Bos. Globe (Oct. 15, 2014), <https://www.bostonglobe.com/opinion/2014/10/14/rethink-harvard-sexual-harassment-policy/HFDDiZN7nU2UwuUuWMnqbM/story.html>

Nancy Gertner, *Sex, Lies, and Justice*, American Prospect (Jan. 12, 2015), <http://prospect.org/article/sex-lies-and-justice>

Janet Halley, *Trading the Megaphone for the Gavel in Title IX Enforcement*, 123 Harv. L. Rev. F. 103 (2015), <https://harvardlawreview.org/2015/02/trading-the-megaphone-for-the-gavel-in-title-ix-enforcement-2/>

Jacob Gersen & Jeannie Suk Gersen, *The Sex Bureaucracy*, Chron. Higher Educ. (Jan. 6, 2017), <http://www.chronicle.com/article/The-College-Sex-Bureaucracy/238805>

Harvard Law School Sexual Harassment Resources and Procedures for Students, <https://hls.harvard.edu/content/uploads/2015/07/HLSTitleIXProcedures150629.pdf>

Fairness for All Students

Inquiries please contact:

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Janet Halley, jhalley@law.harvard.edu

Jeannie Suk Gersen, jsg@law.harvard.edu

Exhibit 31

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

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of the Freedom of Information and Privacy Act

Exhibit 32

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 33

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 34

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

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(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 35



Dean of the College

Disciplinary Process: Issues Other Than Sexual Misconduct

[Williams](#) » [Dean of the College](#) » [Policies](#) » *Disciplinary Process: Issues Other Than Sexual Misconduct*

The Office of the Dean of the College investigates alleged breaches of good conduct and of College laws and regulations. A student charged with such a breach will be informed by a dean of the alleged violation. Any student who is charged with an offense shall have a reasonable opportunity to make his or her defense in a respectful manner to a dean, or to the faculty–student Discipline Committee if the matter comes before that Committee.

Procedures for this committee may be found [here](#).

Normally the Office of the Dean of the College decides disciplinary cases; however, a dean may choose to refer a case directly to the faculty–student Discipline Committee. If acting on his or her own, a dean may impose such penalties as he or she deems appropriate and consistent with the College Laws and regulations. The penalties a dean may consider include but are not limited to: disciplinary warning (a letter from the dean, a personal interview, or both); disciplinary probation for a specified period (sometimes with specified conditions, e.g., loss of eligibility to represent the College, restrictions of extra–curricular activities); payment of a fine or restitution; suspension for a specified time; or permanent expulsion.

When a dean decides a disciplinary case, he or she normally writes to inform the accused student of the decision and of any penalties; and in cases that involve violations of individual rights

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or injury to Williams students, staff, or faculty or to their property, to explain the decision to those aggrieved. The accused student, and any aggrieved Williams student, staff, or faculty, must respond in writing to the dean, within one week, either accepting the dean's decision and penalties or asking to appeal the case to the Discipline Committee. A failure to respond will constitute an acceptance of the dean's decision. In the absence of an appeal in writing within one week, any penalties imposed by the dean shall take or continue in effect.

A dean, at any time, may impose an interim suspension or other restriction upon a student if, in the dean's sole discretion, interim measures are appropriate in order to protect the safety or well being of the student or others or otherwise is in the best interests of the College.

For information regarding sexual misconduct processes click [here](#) Processes for issues involving sexual misconduct click [here](#)

Campus Safety & Security
Career Center
Chaplains' Office
Davis Center
Disability Support Services
Fellowships
Financial Aid
Health & Psychological Counseling Services
International Education & Study Away
Registrar
Student Life

Williams College : Dean of the College
880 Main St., Hopkins Hall 2nd Fl.,
P.O. Box 518
Williamstown, MA 01267 USA
tel: 413.597.4171 | fax:
413.597.3507
chaley@williams.edu

Academics

Admission & Aid

Life on Campus

Alumni & Families

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Exhibit 36

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Exhibit 37

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

Withheld pursuant to exemption

(b)(7)(A)

of the Freedom of Information and Privacy Act

From: Noda, Tokufumi
Sent: 19 Jun 2019 19:24:16 +0000
To: msm8@williams.edu
Cc: Ajami, Ramzi
Subject: OCR Case No. 01-18-2067 (Williams College)
Attachments: Data Request (Williams College).pdf, Notification Letter (R).PDF

Dear Dr. Mandel:

Attached please find a copy of a notification letter and data request for the above-referenced complaint that OCR is opening for investigation. Thank you for your assistance with this matter. If you have any questions, please contact Ramzi Ajami, Program Manager, at (617)289-0086 or Ramzi.Ajami@ed.gov.

Sincerely,

Tokufumi Noda

Tokufumi J. Noda
Civil Rights Attorney
U.S. Department of Education
Office for Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109
P: (617) 289-0017
F: (617) 289-0150

OCR is committed to providing the public, including students, parents, educators, representatives of school districts, colleges, and universities, and other interested persons, with information about the civil rights laws OCR enforces. In responding to correspondence, OCR provides customers with general, publicly-available information about a wide variety of civil rights issues in the education context. However, OCR does not provide legal or other advice or issue advisory opinions to customers concerning specific factual scenarios. Correspondence issued by OCR in response to an inquiry from the public does not constitute a formal statement of OCR policy and should not be construed as creating or articulating new policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Data Request
OCR Complaint No. 01-18-2067
Williams College (College)

(b)(6);
(b)(7)(C)

Please submit the following information to Ramzi Ajami within 15 calendar days of the date of this letter. We prefer that you submit information electronically, if feasible. Additionally, if any of the information is available on-line, you may provide the URL in lieu of hard copy documents. If you intend on using a file-sharing platform, please contact the staff member listed above. Please note that OCR is not requesting, and the College should not provide, any social security numbers in response to this data request. You can send the information to the mailing address on the enclosed letter, fax it to (617) 289-0150, or email it to Ramzi.Ajami@ed.gov. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us prior to the expiration of the 15-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

Please provide the following for the [redacted] academic year, unless otherwise indicated, or the requested item does not exist. Please indicate in writing if any of the requested items do not exist:

1. The name, title, and contact information for:
 - a. The College's contact person for this complaint;
 - b. Person authorized to resolve this complaint; and
 - c. The College's current Title IX Coordinator and, if different, the name and title of the College's Title IX Coordinator for the [redacted] academic year.
2. Copies of the College's policies and procedures that were applied to reports or complaints of sexual harassment filed by or against the Student.
3. Copies of all documentation relating to the steps and actions the College took in response to the reports/complaints of sexual harassment or assault made against the Student, including but not limited to:
 - a. Any written complaints and/or a detailed written description of any verbal complaints;
 - b. Any investigative reports, witness statements, and hearing transcripts; and
 - c. Correspondence including e-mail messages, text messages, telephone logs, minutes of meetings, and letters between the College and the Student, between the College and other related parties (e.g., parents, representatives, complainants, witnesses), and internally between College staff.

(b)(6);
(b)(7)(C)

4. Copies of all documentation relating to the steps and actions the College took in response to the reports/complaints of relationship abuse made by the Student, including but not limited to:
 - a. Any written complaint(s) and/or a detailed written description of any verbal complaint;
 - b. Any investigative reports, witness statements, and hearing transcripts; and
 - c. Correspondence including e-mail messages, text messages, telephone logs, minutes of meetings, and letters between the College and the Student, between the College and other related parties (e.g., parents, representatives, complainants, witnesses), and internally between College staff.
5. Copies of all documentation and correspondence related to the College's administration of interim measures, including actions that affected and resources/services provided to the Student and other students, during the pendency of its investigation of the reports/complaints made by and against the Student. Please include all documentation related to:
 - a. Restrictions (e.g., no-contact orders) placed on the Student;
 - b. Restrictions placed on other students (complainants);
 - c. Resources and/or services offered to the Student;
 - d. Resources and/or services offered to other students (complainants); and
 - e.

[Redacted]
6. The College is invited, but not required, to provide any additional information that the College believes might be helpful to OCR's investigation and/or a narrative response to the allegations in this complaint.

(b)(6);
(b)(7)(C)



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I
5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-3921

June 19, 2019

Maud Mandel, Ph.D.
President
Williams College
880 Main Street
Hopkins Hall 3rd floor, P.O. Box 687
Williamstown, MA 01267
Email: msm8@williams.edu

Re: Complaint No. 01-18-2067
Williams College

Dear Dr. Mandel:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) has opened for investigation the above-referenced complaint filed against Williams College (College). The Complainant alleges that the College discriminated against the Student on the basis of his sex (male). Specifically, the complaint alleges that the College failed to promptly and equitably respond to complaints of sexual assault and relationship abuse filed against and by the Student. The complaint alleges, among other things, that the College selectively enforced no-contact orders, denied the Student access to evidence and information, and [REDACTED]

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.

Because OCR determined that it has jurisdiction and that the complaint was timely filed, OCR is opening the following legal issues for investigation:

- Whether the College failed to promptly and equitably respond to complaints of sexual assault and relationship abuse filed against and by the Student, in violation of 34 C.F.R. § 106.8(b).

Please note that opening the complaint for investigation in no way implies that OCR has made a determination on the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the Complainant, the College, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and fully responds to the allegations in accordance with the provisions of the *Case Processing Manual*, available at <http://www.ed.gov/ocr/docs/ocrcpm.pdf>. Please also note that the complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Our goal is the prompt, appropriate resolution of the complaint. While we are proceeding with an investigation, there are other approaches that can achieve this goal. Information on OCR's complaint processing procedures is available at <http://www.ed.gov/ocr/complaints-how.html>. In particular, please note the section on Facilitated Resolution Between the Parties (FRBP). Under this voluntary, informal approach, similar to mediation, OCR helps facilitate settlement discussions between the Complainant and the College. If you believe FRBP can be useful in this case, please contact the OCR staff persons identified below as soon as possible.

Please also note the section on resolution of a complaint prior to the conclusion of an investigation. If the College expresses an interest in resolving the complaint and OCR determines that resolution of the complaint prior to the completion of the investigation is appropriate, OCR may attempt to negotiate an agreement with the College pursuant to Section 302 of the *Case Processing Manual*.

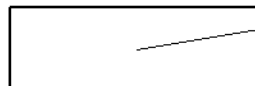
Attached is a request for data necessary to investigate this complaint. OCR requests that the College submit this information within 15 calendar days of the date of this letter. We prefer that you submit information electronically, if feasible. If any item in our request is unclear, or if you experience any difficulty complying with this request, please contact us as provided below prior to the expiration of the 15-day period. Please be aware that OCR may need to make additional requests for information in the future. If OCR needs to conduct an on-site investigation, we will notify you in advance.

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 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, you may contact me at (617) 289-0086 or by e-mail at Ramzi.Ajami@ed.gov.

Sincerely,

A rectangular box with a black border, used to redact the signature of Ramzi Ajami.

Ramzi Ajami
Program Manager

(b)(6);
(b)(7)(C)

Enclosure

(b)(6);
(b)(7)(C)

From: Noda, Tokufumi
Sent: 19 Jun 2019 19:29:42 +0000
To: [REDACTED]
Cc: Ajami, Ramzi
Subject: OCR Case No. 01-18-2067 (Williams College)
Attachments: Notification Letter (C).PDF

(b)(6);
(b)(7)(C)

Dear [REDACTED]

Attached please find a letter notifying you that OCR is opening for investigation the above-referenced complaint you filed against Williams College. I apologize for the delay, and if you have any questions please contact Ramzi Ajami, Program Manager, at (617)289-0086 or at Ramzi.Ajami@ed.gov.

Sincerely,

Tommy Noda

Tokufumi J. Noda
Civil Rights Attorney
U.S. Department of Education
Office for Civil Rights
5 Post Office Square, 8th Floor
Boston, MA 02109
P: (617) 289-0017
F: (617) 289-0150

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

5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-3921

June 19, 2019

By E-mail:

Re: Complaint No. 01-18-2067
Williams College

Dear

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is opening for investigation the above-referenced complaint you filed against Williams College (the College). You allege that the College discriminated against your son (the Student) on the basis of sex. Specifically, the complaint alleges that the College failed to promptly and equitably respond to complaints of sexual assault and relationship abuse filed against and by the Student. You allege, among other things, that the College selectively enforced no-contact orders, denied the Student access to evidence and information, and

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 College receives federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Title IX.

Because OCR determined that it has jurisdiction and that the complaint was timely filed, OCR is opening the following legal issue for investigation:

- Whether the College failed to promptly and equitably respond to complaints of sexual assault and relationship abuse filed against and by the Student, in violation of 34 C.F.R. § 106.8(b).

Please note that opening the complaint for investigation in no way implies that OCR has made a determination on the merits of the complaint. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from you, the College, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and fully responds to the complaint in accordance with the provisions of the *Case Processing Manual*, available at <http://www.ed.gov/ocr/docs/ocrcpm.pdf>. Please also note that you may have a right to file a private suit in federal court whether or not OCR finds a violation.

You also alleged that the College retaliated against the Student. As a discrete act of retaliation, the allegation appears untimely. OCR will, however, consider as part of its investigation into whether the College failed to promptly and equitably respond to complaints filed against and by the Student.

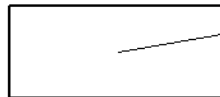
Our goal is the prompt, appropriate resolution of the complaint. While we are proceeding with an investigation, there are other approaches that can achieve this goal. Information on OCR's complaint processing procedures is available at <http://www.ed.gov/ocr/complaints-how.html>. In particular, please note the section on Facilitated Resolution Between the Parties (FRBP). Under this voluntary, informal approach, similar to mediation, OCR helps facilitate settlement discussions between you and the College. If you believe FRBP can be useful in this case, please contact the OCR staff persons identified below as soon as possible.

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 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, you may contact me at (617) 289-0086 or by e-mail at Ramzi.Ajami@ed.gov.

Sincerely,

A rectangular box with a black border, used to redact the signature of Ramzi Ajami.

Ramzi Ajami
Program Manager

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Withheld pursuant to exemption

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of the Freedom of Information and Privacy Act

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