



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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TEXAS

April 11, 2024

Dr. Stephen Vacik, President
Hinds Community College
P.O. Box 1100
Raymond, MS 39154

Sent via email only to: [redacted content]

RE: OCR Complaint No. 06212198
Hinds Community College

Dear President Vacik:

This letter is to inform you of the disposition of the above-referenced complaint the complainant (Student) filed against Hinds Community College – Jackson Campus (the College), alleging discrimination based on sex. In this investigation, OCR investigated whether:

1. The College discriminated against the Student on the basis of sex during the Spring 2021 semester by failing to provide her with academic adjustments during her pregnancy; and
2. The College failed to respond promptly to the Student’s complaint that her instructors and a supervisor subjected her to harassment based on her pregnancy.

Article III of OCR’s [Case Processing Manual](#) provides that “[w]hen during the course of the investigation of the allegation(s), OCR identifies compliance concerns and/or violations involving issues that were not raised in the complaint, OCR will address any compliance concerns and/or identified violations. Therefore, during the course of its investigation, OCR also considered whether the College, when allegedly failing to provide the Student with academic adjustments during her pregnancy, failed to engage in an interactive process with the Student and failed to consider whether the Student’s pregnancy caused a temporary disability requiring academic adjustments, in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. §794.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulation 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 from the Department. OCR also enforces Section 504 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination based on disability in programs and activities operated by recipients of

federal financial assistance. Because the College receives federal financial assistance from the Department, OCR has jurisdiction over the College pursuant to Section 504 and Title IX.

To investigate this complaint, OCR interviewed the Student and the College's Title IX Coordinator. OCR also reviewed documentary evidence provided by the Student and data responses provided by the College, including the College's policies and procedures, Title IX investigation report, and copies of emails and other communications between the Student and College staff.

Summary of Findings

After a careful review of the evidence gathered during the investigation, OCR found two violations of Title IX. Specifically, OCR found that the College violated Title IX when it failed to provide the Student with necessary adjustments to its educational program to accommodate the Student's pregnancy. OCR also found that the College violated Title IX when it failed to respond appropriately to the Student's complaints of pregnancy discrimination and harassment, of which it had notice. This included failing to provide information to the Student about how to file a formal complaint, failing to provide interim supportive measures, failing to provide the Student with an opportunity to inspect and review evidence, and failing to provide the Student with appeal rights.

OCR's investigation to date also raised a Title IX concern about the sufficiency of the investigation conducted by the College because key witnesses were not interviewed. OCR is concerned that the College may have failed to timely prevent the recurrence of harassment. Finally, OCR is concerned that the evidence produced to date does not reflect that the College considered whether the Student's pregnancy complications constituted a temporary disability, which would entitle the Student to the same rights and protections as other students with a temporary disability pursuant to Section 504.

To resolve this complaint, the College entered into the attached Resolution Agreement (Agreement), which, when implemented, will address the Title IX violations and the compliance concerns related to Title IX and Section 504. The applicable legal standards, factual findings, and reasons for the determinations in this matter are summarized below.

Legal Standards

Title IX

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires each recipient to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulation implementing Title IX, including investigation of any complaint communicated to the recipient alleging any actions which would be prohibited by Title IX. The regulation, at 34 C.F.R. § 106.8(c), requires that a recipient adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX.

The Title IX regulation, at 34 C.F.R. § 106.31(a), states as follows: "Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational

training, or other education program or activity operated by a recipient which receives Federal financial assistance.”

- *Discrimination and Harassment Based on Pregnancy*

The Title IX regulation, at 34 C.F.R. § 106.40(b)(1), prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions.

Title IX and its implementing regulation at 34 C.F.R. § 106.31(a) prohibit recipients of Federal financial assistance from subjecting students to discrimination based on sex under any of the recipient’s education programs or activities. Sexual harassment is a form of discrimination based on sex under Title IX.

The regulation at 34 C.F.R. 106.30 defines “sexual harassment,” in relevant part, as “conduct on the basis of sex” that includes “(2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.” This definition of sexual harassment may include harassment based on sex or sex stereotyping if a reasonable person would determine that the harassment is so severe, pervasive, and objectively offensive that it denies a person equal educational access. *See* 85 Fed. Reg. 30179.

Title IX’s implementing regulation at 34 C.F.R. § 106.44 requires recipients to respond promptly to actual knowledge of sexual harassment in their education programs or activities in a manner that is not deliberately indifferent. In the postsecondary context, the regulations define “actual knowledge” as notice of sexual harassment or allegations of sexual harassment to the Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient. *Id.* § 106.30(a). Once a recipient has actual knowledge of sexual harassment in its education program or activity against a person in the United States, the recipient must offer “supportive measures” to the “complainant.” 34 C.F.R. § 106.44(a). The regulation defines “complainant” as “an individual who is alleged to be the victim of conduct that could constitute sexual harassment.” 34 C.F.R. § 106.30(a). The regulation defines “supportive measures” as “non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.” *Id.* Supportive measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. *Id.* Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. *Id.*

- *Special Services to Pregnant Students*

To ensure a pregnant student’s access to its educational program, when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student’s temporary

pregnancy status. Title IX requires a school to provide the same special services to a pregnant student that it provides to students with temporary medical conditions. 34 C.F.R. § 106.40(b)(4).

Further, under 34 C.F.R. § 106.40(b)(5), a recipient must excuse a student's absences due to pregnancy or related conditions, including recovery from childbirth, for as long as the student's doctor deems the absences to be medically necessary. When the student returns to school, the student must be reinstated to the status the student held when the leave began, which should include giving her the opportunity to make up any work missed. A recipient may offer the student alternatives to making up missed work, such as retaking a semester, taking part in an online course credit recovery program, or allowing the student additional time in a program to continue at the same pace and finish at a later date, especially after longer periods of leave. The student should be allowed to choose how to make up the work. An amended Title IX regulation went into effect on August 14, 2020 and can be viewed [here](#). For more information about Title IX, including the new Title IX regulation and related resources, visit [OCR's website](#).

Section 504

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability. Although a normal, healthy pregnancy is generally not considered a disability, a pregnant student may become temporarily disabled and thus entitled to the same rights and protections of other students with a temporary disability.

If a student with a disability believes that he or she needs a disability-related modification, the student has the obligation to identify himself or herself as having a disability and to request the modification. The Section 504 regulation, at 34 C.F.R. § 104.44(a), requires a post-secondary institution to modify its academic requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability.

Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between a post-secondary institution and the student. Students are responsible for knowing these procedures and following them. Generally, upon receiving documentation of a disability and a request for academic adjustments, a postsecondary institution's evaluation of a student's request requires a fact-specific, case-by-case inquiry. This evaluation process should be interactive, with information exchanged between the student and the postsecondary institution to arrive at a conclusion about the academic adjustment requested.

In providing an academic adjustment, a postsecondary institution does not have to eliminate or lower essential requirements of its programs or activities or make modifications that would result in a fundamental alteration of its programs or activities or impose an undue burden on the institution. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by a student or to any directly related licensing requirement are not regarded as discriminatory. In reviewing an institution's determination that a specific standard or requirement is an essential program requirement that cannot be modified, OCR considers whether that requirement is educationally justifiable. The requirement should be essential to the educational purpose or objective of a program or

class. OCR considers among other factors, whether: (1) the decisions regarding essential program requirements were made by a group of people who are trained, knowledgeable, and experienced in the area through a careful, thoughtful, and rational review of the academic program and its requirements; and (2) whether the decision-makers considered a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability. OCR affords considerable deference to academic decisions made by post-secondary institutions, including what is or is not an essential program requirement.

College's Applicable Policies, Grievance Procedures, and Practices

As part of its investigation, OCR reviewed the College's 2020-2021 notice of nondiscrimination, 2020-2021 grievance procedures for sex discrimination, 2020-2021 Student Handbook, and the College's website.

The College's Notice of Non-discrimination states in pertinent part, "In compliance with... Title IX, Education Amendments of 1972 of the Higher Education Act... Hinds Community College offers equal education and employment opportunities and does not discriminate on the basis of... sex... in its educational programs or activities." However, there is no mention in this notice that the College does not discriminate based on pregnancy.

The College's 2020-2021 Title IX Policy is located on the College's website. The Policy states that it applies to "sex discrimination, including sexual harassment," and that such complaints may be directed to the Title IX Coordinator as well as the Deputy Title IX Coordinators for each of the College's campuses, whose contact information is provided.

The Policy does not state that discrimination based on pregnancy status is also prohibited or covered by the Title IX Policy. Nothing in the posted policies notifies students they may be entitled to adjustments for pregnancy or sets forth a process for students to request those adjustments.

The College's Title IX grievance procedures focus on sexual harassment, except to state that all College staff members are mandatory reporters of "any witnessed sex discrimination." Although the College's Title IX grievance procedures list the steps the College would take to investigate a claim of sex discrimination, there is no indication that the procedures would be used to investigate a claim of pregnancy discrimination or any other acknowledgement that pregnancy discrimination claims fall under the purview of the College's grievance procedures for sex discrimination. The College's Title IX Coordinator confirmed that the College's Title IX materials do not specifically mention parenting status or pregnancy in the section addressing sexual discrimination.

The College's [Disability Services Center website](#) does not refer to pregnant students and does not notify students of their right to request adjustments or describe the process the College uses to approve or deny academic adjustments for pregnant students.

Alleged Failure to Provide Academic Adjustments to Accommodate the Student's Pregnancy

- **Findings of Fact**

The Student enrolled in the College in [redacted content] in the [redacted content] Program (Program), which is a [redacted content]. The Student was scheduled to complete the final semester of the Program in [redacted content]. The final semester of the Program consists largely of [redacted content] in which students are assigned to work [redacted content] within the community and evaluated in a “real world” environment by [redacted content] instructors who work for the College. The students also attend lectures given by instructors and are tested on their knowledge of course material, completing six “unit tests” and a final exam that determine the course grade.

At the beginning of the [redacted content] semester, the Student requested pregnancy-related adjustments to the Program to prepare for the birth of her child [redacted content]. When interviewed by OCR, the Title IX Coordinator stated that requests such as the ones the Student made did not come to the Title IX office. According to the College's practice, it was within the purview of individual instructors and the academic dean of a particular program to determine such adjustments, and therefore the Title IX Coordinator was not involved in any manner in addressing the Student's request.

On [redacted content], the Student requested from her [redacted content] Instructor time to pump breast milk for 15 minutes every three hours once her baby arrived. The [redacted content] Instructor forwarded the e-mail request to the Program Supervisor and Dean. In an email responding to the Student, the Program Supervisor said the College would be willing to work with the Student on breaks to pump, but also told the Student to coordinate with the [redacted content] Instructor to make sure the needs of the Student's clients were covered before she left to pump. However, there is no record that the [redacted content] Instructor provided the Student with agreed upon arrangements for her to pump, and the Student described difficulty coordinating with her [redacted content] Instructor ad hoc to obtain a time and location to pump throughout the semester. The Student had initially requested 4 opportunities to pump per day, but explained the [redacted content] Instructor did not want to give her that many opportunities. This was supported by an email sent from the [redacted content] Instructor to fellow College staff asking if she had to “just let [the Student]” take the pumping breaks she had requested even though it was “more breaks than we get.” Once her baby was born, the Student ultimately ended up trying to pump on pre-existing breaks.

The Student complained to the Program Supervisor in late [redacted content] of the issues she was experiencing in her attempts to negotiate a plan with the [redacted content] Instructor that would allow her sufficient time to pump. While the Program Supervisor said she would “look into” the matter, there is no documentation indicating the Program Supervisor took any further action, and the College provided no evidence to show that the [redacted content] Instructor worked with the Student to provide for the necessary breaks to pump.

The Program Supervisor emailed the Student on [redacted content], asking to meet for the Student to explain how she was going to manage the semester after her baby was born. The Program Supervisor did not mention in the email the option of providing the Student with any adjustments to allow her to care for her newborn child and still complete her [redacted content]. The Program Supervisor and Student did not formally meet, but thereafter had a conversation on [redacted content]. The evidence OCR

reviewed regarding the nature and circumstances of this discussion is conflicting, but what is clear is that the conversation did not result in any adjustments to the Program for the Student.

The Student reported to OCR that, the same week, she requested from the Program Supervisor an adjustment that would permit her to leave [redacted content] 5-10 minutes early to make her obstetrics appointments on time. The Student recalled the Program Supervisor responding that she would have to discuss the request with the Dean. The Program Supervisor ultimately told the Student she would not be allowed to leave early and suggested that the Student defer the semester instead.

In [redacted content], the Student began experiencing high blood pressure and was diagnosed with [preeclampsia](#), a pregnancy complication. The defining features of preeclampsia are high blood pressure, proteinuria, or other signs of damage to the kidneys or other organs. Left untreated, preeclampsia can lead to serious — even fatal — complications for both the mother and baby. Early delivery of the baby is often recommended. On [redacted content], the Student emailed the Program Supervisor seeking information regarding medically excused absences. The Student informed the Program Supervisor of the preeclampsia diagnosis and that she would possibly need to have labor induced soon. The Student also expressed concern about missing a lecture. In response, the Program Supervisor asked to speak to the Student in person about the situation. The Student was unable to meet with the Program Supervisor in person because she went into labor the following day.

On [redacted content], the Student delivered her baby, approximately three weeks early, and notified the College accordingly. Shortly thereafter, while the Student was still in the hospital recovering from her delivery, she reported to OCR that she attempted to participate in a school Zoom meeting but had to log off 20 minutes early for medical treatment. Although she only missed 20 minutes of instruction, the [redacted content] Instructor marked her “absent” for the entire class. In a text message, the Student’s [redacted content] Instructor said they could not give her credit for attending because she had not notified anyone when she had to step away from the computer.

While the Student was still hospitalized after delivery, she tried to log on to an online Zoom pre-test information session. A different [redacted content] instructor, who also served as the faculty team lead (Team Lead), told the Student she could not attend the session because she was not wearing her [redacted content]. The Student explained to the instructor that she had not packed her [redacted content] when she went to the hospital to deliver her baby because the College had not previously consistently required students to wear their [redacted content] to Zoom sessions. The Team Lead did not provide the Student with any alternative arrangements for participation in the session.

On [redacted content], the Student requested the passcode to the video of the lecture material she had missed while in the hospital to prepare for an exam that was scheduled for [redacted content]. The College did not provide her with the requested passcode until the afternoon of [redacted content], a day before the exam. The Student failed the test and reported to OCR that the part of the test she failed measured her knowledge of the material for which the College had not given her access until [redacted content].

Once the Student returned to campus, she continued to have issues with pumping. The Student’s [redacted content] Instructor had initially suggested the Student pump in a “family room” at the [redacted content] because the [redacted content] Instructor heard other people had used that room to

pump. The Student described the “family room” to OCR as a room with no lock and a glass wall where she had little to no privacy. The Student opted to pump in a [redacted content] bathroom. This continued until [redacted content], when a [redacted content] with no affiliation to the College noticed the Student pumping in the bathroom and provided her access to an office in which to pump instead. According to the Student, the [redacted content] said to her, “You don’t eat in the bathroom you don’t pump in the bathroom.” Later that day, when the Student finished her pumping session just before lunch, the Student stated the [redacted content] Instructor told the Student in front of the other students, “you cannot pump and then go to lunch. You have to pump during your lunch break, and you are supposed to find me and tell me anytime you are going to pump.” On [redacted content], the [redacted content] who had been providing the Student with a key to the office to use for pumping was not present, so the Student had to pump in a bathroom toilet stall two times that day. The Student was eventually able to seek out another [redacted content] instructor who assisted her in finding a lactation room.

- **Analysis**

Although the Student sought assistance and asked for adjustments on several occasions, the College had no process in place to respond to the Student’s requests, or any other pregnant students’ requests. The College did not recognize pregnancy and related conditions as Title IX matters. As a result, the [redacted content] Instructor and Program Supervisor failed to address the Student’s requests as requests for adjustments for her pregnancy pursuant to Title IX. Notably, neither the [redacted content] Instructor nor the Program Supervisor consulted with the Title IX Coordinator regarding the Student’s requests, nor did they refer the Student to the Title IX Coordinator. Moreover, the Title IX Coordinator confirmed his office would not be involved in the provision of adjustments for pregnant students.

The Student requested adjustments to the Program so that she could have breaks to pump milk for her baby in [redacted content], well before her baby’s due date in [redacted content]. However, the College provided no evidence to suggest that any College employee discussed any possible adjustments to assist the Student in response to her request beyond instructing the Student to coordinate with her [redacted content] Instructor on an ad hoc basis, resulting in solutions that did not meet the Student’s needs, and depriving the Student of meaningful and full participation in its educational program.

The Student also sought permission to leave [redacted content] 5-10 minutes early to attend her obstetrics appointments, but the Program Supervisor denied her request outright rather than discussing some approach that would allow the Student to attend her appointment and still fulfill her [redacted content] hour requirements. The College also failed to give the Student an opportunity to make up missed work when she had to log off a Zoom class lecture early for medical care while hospitalized after the premature birth of her baby. Instead, the [redacted content] Instructor marked the Student “absent” for an entire class period when she had to log off early for this purpose. Rather than discussing or offering adjustments to the Program to ensure the Student’s participation in the Program, the Program Supervisor sought to require the Student to explain how she was going to manage [redacted content] with a newborn baby. Given the College’s failure to properly consider the Student’s requests for adjustments to the Program to address her pregnancy and related needs, OCR concluded the College violated Title IX as alleged.

While pregnancy is not itself a disability, OCR is concerned that the College did not appear to consider whether the Student’s pregnancy had caused a temporary disability for which she may have required

academic adjustments, and failed to engage in an interactive process with her to determine whether she required academic adjustments pursuant to Section 504. The Student provided notice to the College of her pregnancy-related needs and of her pregnancy complications, which triggered the College's responsibility to respond. The Student asked to leave the [redacted content] early for medical care and requested to attend lectures and reviews while still in the hospital due to her preeclampsia. Nevertheless, the College has produced no evidence that it considered whether the Student experienced a temporary disability.

Alleged Failure to Appropriately Respond to Student's Complaints of Pregnancy-based Harassment

- **Findings of Fact**

Pregnancy-based Harassment

The Student alleged College staff and administrators subjected her to pregnancy-related harassment throughout the [redacted content] semester. For example, on or about [redacted content], the Student reported the [redacted content] Instructor referred to the Student's unborn child as a "parasite" and said the unborn child was "sucking out minerals" in front of other students while the students were working at the [redacted content]. Another student confirmed hearing the [redacted content] Instructor refer to the baby as a "parasite."

The Student further reported that after giving birth to her baby, the [redacted content] Instructor asked her how often she was feeding the baby, then told the Student that her feeding schedule for her newborn was "wrong" and that she needed to "nip it in the bud." The [redacted content] Instructor also characterized the Student's requests for breaks to pump as not indicative of [redacted content] practices in the real world. In an email to fellow College staff, the [redacted content] Instructor said the Student's pumping schedule was "more breaks than we get" and asked, "do I just let her do it? . . . it's not like she would leave a lecture at 9:30 because of her 'pumping schedule'." In statements to the Title IX Investigator who investigated the Student's Title IX complaint (which is discussed further below), two students confirmed hearing the [redacted content] Instructor make negative comments to the Student about pumping while in the [redacted content] setting.

The Student also told OCR other [redacted content] students informed her the [redacted content] Instructor made inappropriate comments about her when she was not present. For example, she reported the [redacted content] Instructor told other students the Student was "allegedly pumping" when they asked about the Student's whereabouts and told several other students that if the Student was going to miss one day of [redacted content]s, she should just "drop from the Program." The [redacted content] Instructor referred to the Student as "[her] pumper" in front of other students and behind the Student's back. In a statement to the Title IX investigator, a student confirmed hearing the [redacted content] Instructor talk about the Student behind her back. Further, the Student reported the [redacted content] Instructor was dismissive, in front of [redacted content], of the Student's plans to finish the Program while pregnant or nursing. As a result, the Student reported to OCR that she felt extremely discouraged and humiliated while trying to complete the Program. The Student also attributed her development of preeclampsia at least in part to the stress she was experiencing from working under the [redacted content] Instructor.

While the College asserts it terminated the [redacted content] Instructor's employment "[p]ursuant to complaint (sic) of having made unpleasant comments regarding students in [redacted content] program being pregnant," the College also produced to OCR a resignation letter from the [redacted content] Instructor dated [redacted content]. The Program Supervisor did not take any other actions to address or remedy the Complainant's complaint of pregnancy-based discrimination and harassment, such as re-examining the test grades the Student received while working under the [redacted content] Instructor or the evaluations the [redacted content] Instructor conducted of the Student, or considering other actions the College could take to help remedy the negative effects of the harassment. For example, a review of the Student's grades shows that her test scores went up markedly after she was no longer training under the [redacted content] Instructor, but there is no evidence the Program Supervisor or anyone else considered this evidence of the impact on the Student. The Student ultimately failed the semester because her test average was too low to pass.

On [redacted content], the Student filed a grade complaint requesting reconsideration of some of her grades based on the [redacted content] Instructor's mistreatment of her. On [redacted content], the College's Dean [redacted content] denied the Student's complaint. The Student appealed the decision, and the College's Dean of Health Sciences denied her appeal on [redacted content]. In denying her appeal, the Dean of Health Sciences (Dean) stated that "...caring for a newborn while still trying to attend class, [redacted content], and study were likely contributing factors to you being unsuccessful in the course." The Dean also erroneously asserted that the Student had not reported the issues with her [redacted content] Instructor until [redacted content], which was more than two months after the problems began. While the Student did not file a formal complaint of discrimination earlier, as discussed above, the Student had complained to the Program Supervisor about the [redacted content] Instructor's failure to negotiate adjustments for pumping as early as [redacted content] – even prior to her child's birth. Similarly, although the Student alleged that she was unable to access review materials until the afternoon prior to a test and then failed the section she was unable to review, the College's response to the Student's grade appeal simply states the Student's "grades were calculated accurately according to the Grading Procedure," without reference to or consideration of any delay in the provision of the log-in information to the Student. The Dean concluded by encouraging the Student to return and complete the Program, which would require the Student to pay to retake the entire final semester of the Program and arrange for childcare for her newborn.

Failure to Appropriately Respond to Title IX Complaint

The Student made the Program Supervisor aware of the difficulty the Student was having in negotiating adjustments as early as [redacted content], and on [redacted content], the Student sent an email to the Program Supervisor outlining the harassment and discrimination she had experienced throughout the semester.

Specifically, the Student complained about the [redacted content] Instructor's lack of adjustments for her to pump milk and the comments she had made. She informed the Program Supervisor that she was upset, embarrassed, and uncomfortable around the [redacted content] Instructor. The Program Supervisor responded that she would speak to the Dean [redacted content] and the [redacted content] Instructor about the Student's complaint and provide her with an update after her next exam on [redacted content]. Sometime after [redacted content], the Program Supervisor moved the Student out of the [redacted content] Instructor's [redacted content] group into the Team Lead's [redacted content] group.

There is no evidence, however, that anyone notified the Student of her right to file a formal Title IX complaint, nor did anyone from the College contact the Student to discuss supportive measures. Nothing on the College's website, policies, or in its "Title IX booklet" (a resource accessible through the College's Title IX page that describes the protections of Title IX and the College's policies and grievance procedures) specifically mentions pregnancy discrimination or harassment or notifies students that these may be grounds to file a Title IX complaint.

On [redacted content], the Student filed a Title IX complaint against her [redacted content] Instructor, the Program Supervisor, and the Team Lead, which was investigated by a Title IX investigation team (Team). The Student alleged sex discrimination and harassment related to the difficulties she encountered in attending doctor's appointments, attempting to pump, the consequent academic issues recited above, the harassing comments the [redacted content] Instructor made to and about her, and the lack of support or adjustments provided by the Program Supervisor. In her complaint, the Student discussed crying on her way home on multiple occasions and feeling like "there was a target on [her] back." She stated that she felt like her "dream of becoming [redacted content] seems over," and informed the College that she "did not have the funds nor the ability to come back." She expressed how pumping, sitting on the toilet with her pump on the "dirty floor" was "humiliating and degrading." The Student also discussed the physical effects she suffered from the lack of a regular pumping schedule. In addition to the preeclampsia, there were times when she could not pump as needed which resulted in her breasts being too full of milk, leaking milk through her shirt, and causing her pain; she feared she was going to develop [mastitis](#), which is a painful inflammation of the breast tissue that can lead to a bacterial infection and cause flu like symptoms in addition to pain and swelling. She also worried that her inability to pump regularly would threaten her milk supply for her baby.

The Title IX Coordinator confirmed this was the only pregnancy-related Title IX complaint that he is aware of the College having received. The three individuals assigned to the Team were all members of the campus police force and were chosen primarily because they did not work at the campus location where the complaint arose. The Title IX Coordinator stated all individuals who participate in Title IX investigation teams receive Title IX training and noted that the training was available on the College's website. The Title IX team training currently posted to the College website makes no mention of or reference to pregnancy as a condition protected under Title IX. The Title IX Coordinator stated the Lead Deputy Title IX Coordinator, who is no longer with the College, had the initial meeting with the Student. He believed the Lead Deputy would have offered the Student supportive measures, but there is nothing in place to track whether this happened.

The Team conducted its investigation and prepared a one-page summary of evidence and a memo of approximately one page summarizing its findings. The Title IX Coordinator confirmed to OCR that those two documents are the only investigative documents created by the Team. One significant omission in the College's investigation is that there appears to be no attempt to speak with the [redacted content] Instructor who was the primary subject of the complaint beyond noting she was "terminated pursuant to (sic) complaint of having made unpleasant comments regarding students in [redacted content] program being pregnant." The Title IX Coordinator stated that the Team is required to interview "all parties involved" in an allegation, including the alleged perpetrator. However, the Title IX Coordinator went on to say that he was not aware of any attempt to interview the [redacted content]

Instructor and said the Title IX investigation Team likely would not have tried to interview someone who was “no longer part of the community.”

Despite the Title IX Investigative Team’s suggestion that the [redacted content] Instructor’s comments rose to a level that warranted dismissal, the Team conclusively found that “[c]omplainant’s [Student’s] allegations of sexual harassment and discrimination lack preponderance of evidence to support allegations of discrimination.” OCR asked the Title IX Coordinator whether he discussed this with the Title IX investigation Team and he stated he did not. OCR also asked the Title IX Coordinator whether he found this position inconsistent and he stated he did not because there might have been other reasons for the [redacted content] Instructor being fired. However, the Title IX report from the Team specifically states the reason for firing as “unpleasant comments regarding students...being pregnant.”

The same memorandum found no wrongdoing by the Program Supervisor in a sentence that confusingly reads: “[t]here was no evidence presented that did not prove [the Program Supervisor and Team Lead] were discriminated against or harassed” and goes on to say “[a]ll evidence presented supported that [the Program Supervisor] addressed the concern regarding [the [redacted content] Instructor] and that matter was resolved, made reasonable adjustments once they were aware of the concerns.” Moreover, there is no evidence the Team considered the impact of the [redacted content] Instructor’s behavior on the Student’s ability to perform academically because the Team found there was insufficient evidence of discrimination.

The Title IX Coordinator provided the result of the investigation to the Student in an email that said “the Title IX investigation found no questions unanswered as it relates to this complaint. The final decision is the dismissal of the complaint based on no findings to support further actions.” The email did not mention whether the Student had any right to appeal.

- **Analysis**

Under Title IX, the College must respond promptly to actual knowledge of conduct that could constitute sexual harassment in its education programs or activities in a manner that is not deliberately indifferent. Sexual harassment is defined as “unwelcome sexual conduct that is so severe, pervasive, and objectively offensive from a reasonable person’s perspective that the behavior effectively denies the person equal access to a recipient’s programs or activities...” The regulation defines “deliberate indifference” as responding to sexual harassment in a manner that is clearly unreasonable in light of the known circumstances.

The Student notified the College of the issues she was experiencing obtaining adjustments for her pregnancy on [redacted content]. The Student then made an official complaint to the Program Supervisor on [redacted content], and outlined the harassment she had been experiencing as well as her continued difficulty obtaining adjustments. The Student again informed the College of the difficulties she experienced through a formal Title IX complaint on [redacted content]. There is no evidence that the College had ever informed her of her right to file a formal complaint beyond distribution of Title IX materials that made no reference to pregnancy. There is also no evidence that the College offered the Student interim supportive services beyond moving her out of the [redacted content] Supervisor’s class in [reacted content] when the Student reported the harassment she had been experiencing. Although the Title IX Coordinator posits that his office would have offered supportive services as a matter of course

once the formal complaint was filed in [redacted content], there was nothing in place to track whether this in fact occurred and the Student described a lack of help from the Title IX Office.

Under Title IX, the College was also required to provide the parties with an opportunity to “inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint...so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.” (See: 34 C.F.R. § 106.45(b)(5)(vi).) There is no evidence the parties received this opportunity and, in fact, the Title IX Coordinator’s email to the Student informing her the Title IX Office would be dismissing the Student’s complaint is dated [redacted content], while the Title IX Team’s Memo to the Title IX Coordinator was dated [redacted content]. Similarly, the College was required to provide the Student with an opportunity to appeal. While the College’s Title IX Booklet does mention the right to an appeal, there is no mention of the appeal right in the Title IX Coordinator’s email to the Student saying, “the final decision is the dismissal of the complaint based on no findings to support further actions.”

While the College eventually investigated the Student’s reports of pregnancy discrimination, the College did so only in response to the complaint the Student made on [redacted content], three months after the Student initially complained to the Program Supervisor in [redacted content] about the [redacted content] Instructor’s failure to help her develop a plan to pump, and after three months of the [redacted content] semester had already elapsed without the College having provided appropriate adjustments to the Program for the Student.

The comments by the [redacted content] Instructor, many of which were corroborated by the College, denigrated the fact that the Student was pregnant and that she exercised her rights under Title IX to request adjustments for her pregnancy. Likewise, in her own statement to the Title IX team, the Program Supervisor noted she denied the Student permission to leave early for doctor’s appointments and suggested the Student defer the semester. Instead of assisting the Student with her pregnancy-related needs, these College administrators attempted to discourage the Student from trying to complete the Program due to her pregnancy, and even mocked and penalized her for requesting adjustments. The College’s deliberate indifference to notice of the pregnancy discrimination allegations allowed the Student to be subjected to the harms of continuing sex discrimination throughout the Spring 2021 semester.

OCR also has significant concerns about the sufficiency of the College’s Title IX investigation. There is no record that anyone attempted to interview the [redacted content] Instructor who was the primary subject of the complaint. The investigative report simply noted that [redacted content] Instructor was fired, which contradicts the resignation letter provided by the College. Further, the report gave summary treatment to the conduct of the Program Supervisor, stating in one sentence that the Program Supervisor addressed the Student’s concern regarding the [redacted content] Instructor and made “reasonable adjustments once they were aware of the concerns,” leaving it unclear whether the Title IX Investigation Team considered the Student’s early requests for adjustments at all.

OCR also identified no evidence to suggest the College considered the impact of the harassment by the [redacted content] Instructor and Program Supervisor. OCR also found no evidence that the College considered any effective corrective action to remedy the physical and emotional harm the Student experienced. In addition to the Student’s complaints of pregnancy discrimination, she also complained

about the grade she received in the course taught in part by the [redacted content] Instructor and while trying to manage the stress of working under the [redacted content] Instructor in a [redacted content] environment, which resulted in her having to retake an entire semester. For example, the Student complained that the College did not provide the required passcode to view the video of the lecture material she had missed until the afternoon before an exam which resulted in the Student failing that exam. Although the Title IX Coordinator was aware of the grade complaint before the Student even filed her Title IX complaint, the Title IX Coordinator told OCR these processes would have been handled entirely separately. The College seemingly did not consider the additional financial burden placed on the Student by having to pay to re-take the semester at issue, or whether she might be entitled to other relief to make her whole.

The College also failed to take steps at the time to effectively prevent the recurrence of such misconduct. The College provided OCR with no information to show that the College had provided its faculty and staff training on its obligations under the Title IX regulations regarding pregnant students who request adjustments. OCR notes that it is available to provide technical assistance to the College regarding its Title IX obligations.

OCR also notes that, although the College's website and Title IX Policy Booklet direct students to contact the College's Title IX Coordinator if they believe they have experienced sexual harassment, neither mention pregnancy. Similarly, the College's Title IX website contains no information regarding how a student may file a complaint alleging pregnancy discrimination. The Title IX Coordinator acknowledged that the policies and Title IX information the College provides contain little to no language about pregnancy.

Based on consideration of all the information gathered during the investigation, OCR concludes that the College violated Title IX as alleged because the College displayed deliberate indifference to the Student's complaints of pregnancy discrimination and pregnancy-related harassment.

Conclusion

The College signed the enclosed Agreement, which, when fully implemented, will address the evidence OCR obtained, the issues OCR investigated, and the violations of Title IX as well as the compliance concerns related to Section 504 OCR identified. The Agreement requires the College to:

1. Revise its policies and procedures for providing adjustments for pregnant students, as necessary, to ensure the College is abiding by Title IX's prohibition on discrimination against pregnant students;
2. Prominently publish information regarding the Title IX rights of pregnant students, the process for pregnant students to request adjustments, the name and contact information for the individual(s) tasked with coordinating the College's response to requests for adjustments from pregnant students, the name and contact information for the College's Title IX Coordinator, and the grievance procedure for students to file complaints of sex discrimination, including pregnancy-related complaints;

3. Provide training to all faculty regarding the Title IX rights of pregnant students and the College's obligations to pregnant students;
4. Conduct a survey of the faculty and staff who attend the training regarding the Title IX rights of pregnant student to ensure the appropriate information has been disseminated;
5. Develop a system for tracking requests for pregnancy-related adjustments received by the College, the College's response, and the reasons for the denial of any requests;
6. Compile a list of all pregnancy-related requests for adjustments from students as well as the College's response for the 2023-2024 academic year;
7. Reimburse the Student the full cost of tuition and any related mandatory expenses for the Student's final semester of the [redacted content] Program at Hinds Community College.

OCR will monitor the implementation of the Agreement until the College is in compliance with the terms of the Agreement. Upon completion of the obligations under the Agreement, OCR will close the case.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Student may have the right to file a private suit in federal court whether or not OCR finds a violation.

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, to the extent provided by law, personally identifiable information, that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact Lindsay Drennan, the attorney assigned to this complaint, via email at Lindsay.Drennan@ed.gov or by telephone at (202) 987-1543.

Sincerely,
/s/
Angela Hights
Regional Director
Office for Civil
Rights Dallas Office

cc: John Hooks, Counsel for Recipient
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