



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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April 23, 2020

Sent via email only to driversuz44@gmail.com

Suzanne McCarley
Address unknown

Re: University of Kansas
OCR Case Number: 07-19-2129

Dear Ms. McCarley,

On August 12, 2019, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received your complaint alleging discrimination on the bases of sex and race by the University of Kansas (University) in Lawrence, Kansas and the University of Kansas Medical Center (Medical Center) in Kansas City, Kansas. You alleged discrimination on the basis of sex in admissions, employee recruitment, areas of study, programing, financial awards, services offered, and affiliations with certain organizations. You alleged discrimination on the basis of race with regard to financial awards. As explained in this letter, OCR is opening a portion of your complaint for investigation and dismissing other allegations.

Your complaint allegations are summarized below:

1. The University's Women in Science and Medicine program is designed to advance and retain women faculty through events and scholarships and there is no equivalent program for men.
2. The University hosts a Kansas Women's Leadership Institute at the University and does not host an equivalent program for men.
3. The University maintains a Women's Center that caters to the interests of women and does not offer an equivalent Men's Center.
4. The University lists, promotes, and funds various scholarships which discriminate in violation of Title IX. You identified the following scholarships:
 - a. The KU Women for Women Fund
 - b. The Terri Knoll Johnson Award
 - c. The Graduate Engineering Minority (GEM) Consortium
 - d. WiSTEMM
 - e. IHAWKe
 - f. KUEST

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

- g. The Jeanette Rankin Foundation,
 - h. L’Oreal USA Fellowships for Women in Science
 - i. The Emerge Scholarship
 - j. Education Connection scholarships
 - k. 1,000 Dreams Scholarship,
 - l. Volt Lightning Women’s Excellence Award
 - m. Worthy Women’s Scholarship
 - n. Gorilla 76 Women in Marketing Scholarship
 - o. Deputy Scholarship for Women in Technology
 - p. Hair Critics Scholarship
 - q. Grants for Women
5. The University lists, promotes, and funds various scholarships which discriminate in violation of Title VI. You identified the following scholarships:
 - a. IHAWKe
 - b. KUEST
 - c. GEM Consortium
 - d. Hair Critics Scholarship
 6. The University lists, promotes, funds, endorses, and associates with various institutions which discriminate against men. The University does not offer assistance to any male-only organizations. These institutions offer female-only scholarships. You listed the following organizations:
 - a. Girl Scouts of America
 - b. Accounting and Financial Women’s Alliance
 - c. Zonta International Foundation
 - d. Kansas University Women’s Club
 - e. Association of American University Women
 - f. Society of Women Engineers
 - g. Association of Women in Mathematics
 - h. Women Jayhawks of the World
 7. The University utilizes an unlawful preference for women in University admissions.
 8. The Medical Center utilizes an unlawful preference for women in employment and hiring practices.
 9. The University offers a “Women’s, Gender & Sexuality Studies” program.
 10. The University’s Women in Finance student organization is discriminatory in that it aims to connect female students to women within the field. The University also does not offer an equivalent student organization for male students.
 11. The University has a Women’s Health Center with no equivalent Men’s Cancer Center.
 12. The University has a Women’s Cancer Center with no equivalent Men’s Cancer Center.
 13. The University has a Women’s Health Center at its St. Francis Campus with no equivalent for men.

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, prohibit discrimination on the basis of sex in any

education program or activity receiving federal financial assistance (FFA). Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d et seq., and its implementing regulation at 34 C.F.R. Part 100, prohibit discrimination on the basis of race, color, or national origin in any program or activity receiving FFA. Under Title IX and Title VI, OCR has enforcement jurisdiction over recipients of FFA from the Department. As a recipient of FFA from the Department, the University is subject to Title IX, Title VI, and to OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

After reviewing the allegations and evidence you provided, OCR is opening allegations 1, 2, 3, 4(a-e), 4(g), 5(a-c), and 10 above for investigation. OCR's decision to dismiss allegations 4(f), 4(h-q), a portion of 5(b), 5(d), 6-9 and 11-13 is explained more fully below.

OCR will investigate whether the University:

1. excludes male employees from participation in the Women in Science and Medicine organization at the Medical Center, in violation of Title IX;
2. excludes male students from participation in the Kansas Women's Leadership Institute at the University of Kansas, in violation of Title IX;
3. excludes or otherwise discriminates against male students in connection with the Emily Taylor Center for Women and Gender Equity, the KU Wi-STEMM student organization, the Society of Women Engineers, or the Women in Finance student organization, in violation of Title IX;
4. discriminates on the basis of sex in connection with the KU Women for Women Fund, the Society of Women Engineers Scholarships, the Terri Knoll Johnson Award, the GEM Consortium, the IHAWKe Fellowship, the Jeanette Rankin Foundation, the University Women's Club scholarship, the Soroptimist Live Your Dream Award, and the Patsy Takemoto Mink Education Foundation for Low-Income Women and Children, in violation of Title IX¹; and
5. discriminates on the basis of race in connection with the GEM Consortium, the IHAWKe Fellowship, and the KUEST ONE scholarship, in connection with Title VI.

OCR has jurisdiction to investigate and resolve these allegations against the University pursuant to Article III of OCR's *Case Processing Manual (CPM)*.²

¹ You did not include the University Women's Club scholarship, the Soroptimist Live Your Dream Award, or the Patsy Takemoto Mink Education Foundation for Low-Income Women and Children scholarships in your complaint. OCR identified these scholarships, which are listed on the University's webpage, as potential Title IX violations during its evaluation of these complaint allegations.

² The *Case Processing Manual* is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR offers, when appropriate, a Facilitated Resolution Between the Parties (FRBP) process to facilitate the voluntary resolution of complaints by the parties. In addition, when appropriate and upon request by a recipient, a complaint may be voluntarily resolved before the conclusion of an investigation through an agreement with OCR. The enclosed document entitled *OCR Complaint Processing Procedures* provides more information about OCR's evaluation, investigation, and resolution procedures.

Allegations 4(f), 4(h-q), 5(b), and 5(d) through 9

Section 108(b) of the *CPM* provides OCR will dismiss an allegation, or, if appropriate, the complaint in its entirety, when the allegation lacks sufficient factual detail (i.e., who, what, where, when, how); or is so speculative, conclusory, or incoherent that OCR cannot infer discrimination or retaliation may have occurred or may be occurring. OCR contacted you on January 13, 2020 to advise you that additional information was needed regarding certain of your complaint allegations. During that conversation, you were advised if OCR did not receive the needed information, OCR may dismiss your complaint or some of the complaint allegations. Your written complaint, supporting information, and the additional information provided to OCR during the January 13, 2020 interview do not provide sufficient information to raise certain allegations above the level of speculation, as explained below. Accordingly, OCR is dismissing allegations 4(f), 4(h-q), 5(d), and 6-9 pursuant to *CPM* Section 108(b).

Allegations 4 and 5

During an interview with you on January 13, 2020, OCR requested more information explaining how the University was affiliated with scholarships listed in allegations 4(g) through (q) and 5(d) in your complaint. Your complaint included a cite to each scholarship's webpage for 4(g) through (q) and 5(d) but did not provide any explanation for how the scholarship was associated with the University. OCR reviewed the information available on the University's website for each of the scholarships listed in allegations 4(g) through (q) and 5(d) and could not find any information indicating the University is involved in administering, managing, or otherwise involved in any aspect of the listed scholarships, except to list one of the scholarships, the Jeannette Rankin Scholarship (4(g)), as a resource for students in its Pregnant and Parenting Student Handbook, which is found of the Resources link on the Emily Taylor Center for Women and Gender Equity webpage. For scholarships 4(h) through (q), you were unable to provide OCR with any information describing how these scholarships were affiliated with the University, and OCR was unable to identify any additional information demonstrating the scholarships were affiliated with the University. Therefore, OCR is unable to infer allegations 4(h) through (q) violate any laws OCR enforce, and OCR is dismissing these allegations. As stated above in allegation 4, OCR is opening your concerns regarding 4(g) for investigation.

In allegation 4(f) and 5(b) you alleged the KU Engineering, Science, and Technology (KUEST) program violates Title VI and Title IX because it is available to "underrepresented minority and female students" only and provided a link to a page on the University's website in support of your allegation. The University website for KUEST lists three different programs; KUEST K-12 (which includes KUEST 9-12 and KUEST Middle School) and KUEST ONE, (ONE stands for "Outstanding New Engineers"). KUEST K-12 is described as an outreach program which "aims

to expand and fill the pipeline of underrepresented engineers, including women and minorities” targeting “low income, first-generation students.” It is designed to expose underrepresented minority and female middle school through senior level students to engineering. It accomplishes this by partnering with under-resourced local middle and high schools with significant minority and low-income populations. KUEST 9-12 states it allows high school students to participate in half-day tours, hear from student panels, participate in workshops, receive ACT preparation information, and participate in a mentoring program. The program does not state it restricts its participation to students of any gender or race. There is no indication the KUEST 9-12 program is restricted to minority or female students. KUEST Middle School is a program for students to engage in day camps at their respective schools and does not state it restricts its participation by gender or race. The University’s website identifies both a KUEST Girls and KUEST Boys program and curriculum. OCR asked you for any additional information you had to support your allegations that the KUEST programs violate Title IX and/or Title VI, and you told OCR you were unaware of how the programs were run and you were unable to provide any additional information. Based on the information provided, OCR is unable to infer the KUEST K-12 programs violate Title IX or Title VI as alleged in your complaint.

The KUEST ONE program is the only program designed for students who have gained admission at the University. The KUEST ONE webpage states it is open to low-income or first-generation college students, and members of underrepresented minority groups. As stated above in allegation 5, your concerns related to the KUEST ONE scholarship are being opened for investigation. You did not provide, and OCR could not find any evidence to demonstrate the KUEST ONE scholarship is limited by gender; thus, OCR is dismissing allegation 4(f).

Allegation 6

You alleged the University violates Title IX by listing, promoting, funding, endorsing, and associating with various institutions which discriminate against men. You listed the: (a) Girl Scouts of America; (b) Accounting and Financial Women’s Alliance; (c) Zonta International Foundation; (d) Kansas University Women’s Club; and (e) Association of American University Women. In your complaint, you cite to the websites for the organizations listed in (a) through (e) without including any information for how these organizations are connected to the University. In an interview with OCR, you were unable to provide additional information explaining how organizations (a) through (d) are associated with the University. You later provided OCR with information showing the Association of American University Women (AAUW) listed the University as a member on its own website. However, you did not provide any information, and OCR is unable to locate any information, to demonstrate the University, through solicitation, listing, approval, provision of facilities or other services assists AAUW.

Based on the information you provided, OCR is unable to infer discrimination is occurring in relation to these organizations. Additionally, in regard the Girl Scouts of America, Title IX does not apply to the membership practices of the Young Men’s Christian Association, Young Women’s Christian Association, Girl Scouts, Boy Scouts, and Camp Fire Girls. *See* 20 U.S.C. § 1681(a)(6)(B); 34 C.F.R. § 106.14(b). All other programs and activities of these organizations are governed by Title IX if they receive any federal financial assistance.

You alleged the Association of Women in Mathematics is a “female-only” organization with a chapter at the University. The webpage you cite states the Association of Women in Mathematics University of Kansas Student Chapter is an “organization open to all: women and men, students and faculty.” This webpage is the homepage for the organization and prominently states the organization is open to men and women. Based on the information you provided, OCR is unable to infer the Association of Women in Mathematics violates Title IX as alleged in your complaint.

You alleged the Women Jayhawks of the World violates Title IX by being female-only and engaging in sex-specific advocacy. The only evidence you provided was a citation to a University webpage with an article titled, “Women Jayhawks of the World.” The article states the Women Jayhawks of the World is a campaign developed by the University’s Academic Accelerator Program, International Women’s Association, and International Student Services to honor and celebrate the active presence of women at the University. The one-time photography campaign consisted of taking pictures of women holding up a sign with an adjective to describe themselves. Those pictures are included in the article published on the University’s website. OCR was unable to find any other reference to the campaign, and you did not provide any additional information about the campaign. OCR notes pictures of male and female students can be found throughout the University’s website. In an interview with OCR, you told OCR you had no personal knowledge of any individuals being discriminated against at the University. Based on the information you provided, OCR is unable to infer that this one-time campaign violated Title IX.

Allegation 7

You alleged the University gives an unlawful preference for women in admissions. In your complaint, you explained the University offers admission to 91% of male applicants, while the admission rate rises to 95% for female applicants. OCR’s *CPM*, Section 102(d), states statistical data alone are not sufficient to warrant opening an investigation but can serve to support the opening of an investigation when presented in conjunction with other facts and circumstances.³ You cited the Title IX regulation at 34 C.F.R. § 106.21(b)(2), which prohibits any tests or practices that have a disproportionate effect in admissions unless the test can survive strict scrutiny. However, you did not identify any test or practice you believe has had a disproportionate impact on the admission of men to the university or provided any other reason why you believe the admissions process is discriminatory. You also told OCR you did not know anyone related to the University and you were unable to identify anyone impacted by the University’s admission practices.

Allegation 8

You stated the University has an unlawful preference for women in its employment/hiring practices. You stated the Medical Center’s Affirmative Action Policy and Affirmative Action Statement specifically designate “women” as beneficiaries of affirmative action. You referred to

³ The *Case Processing Manual* is available on OCR’s website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

the Medical Center’s webpage which states: “Women, minorities, people with disabilities and veterans are strongly encouraged to apply.” The webpage also states the University “does not discriminate on the basis of race, color, religion, national origin, sex, age, sexual orientation, gender identity/expression, disability . . . in its programs or activities, including employment, admissions and educational programs.”

Under OCR’s *CPM* at section 701(c)(2)(iv), absent special circumstances, OCR does not assert jurisdiction in Title IX employment matters unless the complainant can describe individual examples that suggest a pattern or practice of sex-based discrimination. You were unable to provide any example of male applicants who were denied a preference or other benefit or support in employment that was provided to female applicants. OCR is unable to infer from the information you provided that the Medical Center violates Title IX in its employment/hiring practices.

Allegation 9

You alleged the overall effect of the Women’s, Gender, and Sexuality Studies Department at the University is hostile. You state it has a hostile effect because there is no equivalent Men’s Studies Department, the name invokes women only, men are underrepresented among the professoriate, the research published by faculty refers to women or sex-specific advocacy for women only, the curriculum is preoccupied with the interests of women only, the curriculum stipulates adherence to feminist advocacy, and the department itself creates an atmosphere of bias against men on campus. You cite the definition of feminism from the Merriam Webster Online Dictionary and an article stating “women who strongly identify as feminists are more likely to sacrifice men in ethical dilemmas...”

The Women’s, Gender and Sexuality Studies webpage states the program is open to all students admitted to the University and that students in the program will “develop a broad set of skills to critically analyze social issues from multiple disciplinary perspectives, including anthropology, history, law, literature, political science, psychology, and sociology. They learn to employ different methods and modes of analysis to better identify, critique, and productively understand the status of women in society and how structures of inequality interact with gender and sexuality.”

OCR noted the list of faculty members on the webpage included two male and 11 female faculty members. With respect to the ratio of male to female faculty members, under OCR’s *CPM*, section 102(d), generally, statistical data alone is not sufficient to warrant opening an investigation, but can serve to support the opening of an investigation when presented in conjunction with other facts and circumstances. You have not presented to OCR any other facts and circumstances that would tend to show males were excluded from faculty positions in the program.

You alleged the curriculum is discriminatory due to their content which you state is “preoccupied with the interests of women only.” Although OCR has authority to enforce federal laws prohibiting discrimination, OCR does not have authority to regulate the content of curriculum. As stated in 20 U.S.C. § 3403, the Department and OCR may not “exercise any direction,

supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.”

In your interview with OCR, you did not provide sufficient information for OCR to infer male students are excluded from or discouraged from participating in the program. You also did not provide an example of or information about any male student being treated differently than female students with respect to recruitment, counseling, admission or participation in the program. You told OCR you were not aware of anyone who was discriminated against at the University and had no personal knowledge of anyone being subjected to a hostile environment. Based on the information provided, OCR is unable to infer the Women’s, Gender and Sexuality Studies program violates Title IX as alleged in your complaint.

Allegations 11, 12, and 13

In allegations 11, 12, and 13 you alleged the Women’s Health Services and the Women’s Cancer Center within the University of Kansas Health System violate Title IX. The University of Kansas Health System does not receive FFA from the Department, and therefore, is not subject to OCR’s jurisdiction. OCR is referring allegations 10, 11, and 12 of your complaint to the U.S.

Department of Health and Human Services (HHS), Office for Civil Rights, which may have jurisdiction over your complaint allegations. HHS, Office for Civil Rights, enforces civil rights laws and regulations prohibiting discrimination by institutions receiving FFA from HHS. You may reach HHS, Office for Civil Rights, at the following address:

U.S. Department of Health and Human Services
Office for Civil Rights
601 East 12th Street
Room 250
Kansas City, Missouri 64106
Telephone Number: (816) 426-5226

You have a right to appeal OCR’s determination with regard to allegations 4(f), 4(h-q), 5(d), and 6-9 within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically, by mail, or fax. You must either submit a completed online form at <https://ocrcas.ed.gov/content/ocr-electronic-appeals-form>, or mail a written statement of no more than ten (10) pages (double-spaced, if typed): if submitted by mail, please send to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202. If submitted via e-mail, send to OCR@ed.gov; if submitted via fax, please send to 202-453-6012. The filing date on an appeal is the date the appeal is postmarked, submitted electronically or submitted via fax. In the appeal, you must explain why you believe the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would result in the allegations being opened for investigation; failure to do so may result in dismissal of the appeal.

Recipients of federal funds are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by federal civil rights law. Complaints alleging such retaliation may be filed with OCR.

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

OCR will communicate with you periodically regarding the status of OCR's investigation of your complaint. If you have additional information related to the allegations being opened for investigation which you would like OCR to consider, you may submit the information to the staff person referenced below. Your submission may be in hard copy form (e.g., photocopies of documents), or you may scan the information into an electronic format (e.g., a PDF format). For instance, if you copy data or documents onto removable media, such as CD/DVD disks, this data may be submitted to OCR as an alternative to reproducing the information in a hard copy format.

Because email is not reliably secure, please password-protect any email documentation that includes personally identifiable information that is protected by law. The password should be sent in a separate message or communicated by telephone.

If you have any questions, please contact Jennifer Brooks, Attorney, at (816) 268-0533 (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at Jennifer.brooks@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kelli Douglas". The signature is written in a cursive, flowing style.

Kelli Douglas
Supervisory Attorney