



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

RACHEL POMERANTZ
DIRECTOR
NEW YORK OFFICE

September 15, 2022

Sent via email only to spp2101@cumc.columbia.edu

Spiro Pantazatos
1051 Riverside Drive
Room 3920B
New York, New York 10032

Re: Case No. 02-19-2086
Barnard College

Dear Mr. Pantazatos:

On January 22, 2019, the U.S. Department of Education, Office for Civil Rights (OCR) received the complaint you filed against Barnard College. You alleged that the College discriminates on the basis of sex by denying admission to male applicants (Allegation 1). You also alleged that the College discriminates against men on the basis of their sex by offering opportunities and resources only for women in the following programs: (a) the Women's, Gender and Sexuality Studies Department; (b) the Athena Center for Leadership Studies; (c) the Center for Research on Women; and (d) the pre-college Athena Summer Innovation Institute (Allegation 2).

Based on the information you provided in your complaint, in your written responses to OCR's request for additional information, and in supplemental information you submitted, OCR is dismissing your allegations as explained below.

With respect to Allegation 1, you alleged that the College discriminates on the basis of sex by denying admission to male applicants. In support of your allegation, you stated that, as a female-only educational institution, the College's admissions policies are discriminatory on the basis of sex because they exclude male applicants from admission to the College.

The regulation implementing Title IX of the Education Amendments of 1972 (Title IX), at 34 C.F.R. subpart C, § 106.21, states that no person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which subpart C applies. The regulation implementing Title IX, at 34 C.F.R. 106.15(d), provides that subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education. The College is a private undergraduate institution of higher education. Therefore, subpart C of the regulation implementing Title IX does not apply

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to admissions to the College or other private undergraduate institutions of higher education.¹ Accordingly, OCR has determined that Allegation 1 fails to state a violation of one of the laws or regulations that OCR enforces,² and is dismissing Allegation 1 pursuant to Section 108(f) of OCR's *Case Processing Manual (CPM)*.³

With respect to Allegation 2(a), (b), and (c), you alleged that the College discriminates against men on the basis of their sex by offering opportunities and resources for women only in: the Women's, Gender and Sexuality Studies Department; the Athena Center for Leadership Studies; and the Center for Research on Women. The regulation implementing Title IX, at 34 C.F.R. subpart D, § 106.31, states that, except as provided elsewhere in subpart D, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient of Federal financial assistance; however, it states that subpart D does not apply to actions of a recipient in connection with an education program or activity of a recipient to which subpart C does not apply. As stated above, subpart C does not apply to the College. Therefore, your concern that the College offers the programs enumerated in Allegation 2(a), (b), and (c) only to women fails to state a violation of one of the laws or regulations that OCR enforces. Accordingly, OCR is dismissing Allegation 2(a), (b), and (c) pursuant to Section 108(f) of the *CPM*.

With respect to Allegation 2(d), you alleged that the College discriminates against men on the basis of their sex by offering opportunities and resources for women only in the pre-college Athena Summer Innovation Institute (ASII). You asserted that the ASII is available only to women based on the College's website describing the ASII as "a 10-day intensive program for young *women* entrepreneurs" (your emphasis). You stated that you are not aware of any men who applied and were denied access to the ASII, and that the College does not offer an equivalent summer program for pre-college men.

There is no statement on the College's website that the ASII is only for women; rather, the website's page describing program eligibility states that the ASII is open to "all rising sophomores, juniors and seniors (including Gap Year Students)."⁴ The College's website does not suggest that it discriminates on the basis of sex and your allegation that the College discriminates against men on the basis of their sex by offering the ASII for women only lacks sufficient detail for OCR to infer that discrimination may have occurred or is occurring. Accordingly, OCR is dismissing Allegation 2(d) pursuant to Section 108(d) of the *CPM*, and is closing your complaint.

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. You may have a right to file a private suit in federal court whether or not OCR finds a violation.

¹ See <https://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html>.

² The two Supreme Court cases you cited in support of Allegation 1 are inapplicable in that both involved public institutions found to have violated the Equal Protection Clause of the 14th Amendment. Similarly, the two cases you cited that address the prohibition of discrimination based on sexual orientation are not applicable to the determination of whether Title IX allows the College to deny admission to male applicants.

³ *CPM* (July 18, 2022), <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

⁴ See <https://precollege.barnard.edu/admissions> (last visited Sept. 15, 2022).

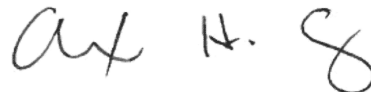
Please be advised that the College must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the College 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, it 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.

You have a right to appeal OCR's determination within 60 calendar days of the date indicated on this letter. An appeal can be filed electronically, by mail, or by fax. You must either submit a completed form online at <https://ocrcas.ed.gov/content/ocr-electronic-appeals-form>, or mail, email, or fax a written statement of no more than 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 email, 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 in this letter 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 case being opened for investigation. Failure to do so may result in dismissal of the appeal.

If you have any questions regarding OCR's determination, please contact me at (646) 428-3901 or alexander.artz@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Art H. S", written in a cursive style.

Alexander H. Artz
Compliance Team Leader