UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

September 10, 2015

Non Responsive

Re: OCR #05-15-2504

Dear Non Responsive

The U. S. Department of Education (Department), Office for Civil Rights (OCR) received the above-referenced complaint you filed on July 27, 2015, against the University of Wisconsin-Whitewater (University) alleging discrimination on the basis of sex. OCR has carefully reviewed and evaluated your complaint and the information you provided by email and in telephone conversations with OCR staff. We conducted the evaluation in accordance with OCR's *Case Processing Manuel* to determine whether to open the complaint for investigation. We have determined that we have the authority to investigate your complaint.

The Complainant alleges that the University discriminated against you on the basis of sex. The complaint raises whether the University failed to promptly and equitably respond to complaints, reports and/or incidents of sexual violence of which it had notice, including your Non Responsive report of an Non Responsive sexual assault and as a result you have been subjected to a sexually hostile environment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex and prohibits retaliation in any program or activity that receives Federal financial assistance from the Department. As a recipient of federal financial assistance from the Department, the University is subject to the provisions of Title IX.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely, it is opening the complaint for investigation. Please note that opening the complaint for investigation in no way implies that OCR has made a determination with regard to its merit. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of the *Case Processing Manual*.

When appropriate, a complaint may be resolved before the conclusion of an investigation when the recipient expresses an interest to resolve the complaint. In such cases, a resolution must be

aligned with the complaint allegation or the information obtained during the investigation and it must be consistent with applicable regulations. Information about this is in the enclosure to this letter.

OCR is committed to prompt and effective service. If you have any questions, please contact Ms. Amy A. Truelove, Senior Equal Opportunity Specialist at 312-730-1610 or by email at amy.truelove@ed.gov.

Sincerely,

Dawn R. Matthias

Dawn R. Matthias
Team Leader

Enclosure

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September 10, 2015

Dr. Beverly Kopper
Interim Chancellor
University of Wisconsin-Whitewater
800 West Main St.
Hyer Hall 421
Whitewater, Wisconsin 53190

Re: OCR #05-15-2504

Dear Dr. Kopper:

On July 27, 2015, the Chicago office of the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint of discrimination filed against the University of Wisconsin-Whitewater (University) alleging discrimination on the basis of sex. OCR conducted an evaluation in accordance with OCR's *Case Processing Manual* to determine whether to open the complaint for investigation. We have determined that we have the authority to investigate this complaint.

The Complainant alleges that the University discriminated against her on the basis of sex. The complaint raises whether the University failed to promptly and equitably respond to complaints, reports and/or incidents of sexual violence of which it had notice, including Student A's Non Re eport of an Non Responsive exual assault and as a result Student A has been subjected to a sexually hostile environment.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681-1688, and its implementing regulation at 34 C.F.R. Part 106. Title IX prohibits discrimination based upon sex in any educational program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to this law. Additional information about the laws OCR enforces is available on our website at http://www.ed.gov/ocr.

Because OCR has determined that it has jurisdiction and that the complaint was filed timely, it is opening the complaint for investigation. Please note that opening the complaint for investigation in no way implies that OCR has made a determination with regard to its merit. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient, and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegation, in accordance with the provisions of Article III of the *Case Processing Manual*.

When appropriate, a complaint may be resolved before the conclusion of an investigation after the recipient expresses an interest to OCR to resolve the complaint. In such cases, a resolution agreement signed by the recipient and submitted to OCR must be aligned with the complaint allegation or the information obtained during the investigation and it must be consistent with applicable regulations. Information about this is in the enclosure to this letter.

Please read the enclosed document entitled "OCR Complaint Processing Procedures," which includes information about:

- OCR's complaint processing procedures;
- Regulatory prohibitions against retaliation and intimidation of persons who file complaints with OCR or participate in an OCR investigation; and
- Application of the Freedom of Information Act and the Privacy Act to OCR investigations.

OCR intends to conduct a prompt investigation of this complaint. The regulation implementing Title VI of the Civil Rights Act of 1964 at 34 C.F.R. § 100.6(b) and (c) requires that a recipient of federal financial assistance make available to OCR information that may be pertinent to a compliance determination. This requirement is incorporated by reference in the regulation implementing Title IX at 34 C.F.R. § 106.71. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a) (3) (iii) of the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, OCR is requesting that you provide the following information to us within twenty (20) calendar days from the date of this letter. Wherever possible, please provide the requested information in electronic format. If responsive data are available through the Internet, please provide the link to the data. OCR will consider data provided by the University in response to complaint #05-14-2081, which contains similar allegations as the instant complaint.

1. A narrative response to this complaint.

2. A copy of all written reports of sexual violence, misconduct, retaliation or harassment of Student A, a narrative description of her Non Responsive sexual violence report, and a detailed description with supporting documentation of the University's response(s) to the report(s).

3. If not included in the response to the above items, a copy of all correspondence, memoranda, electronic mail messages (include internal emails amongst University staff, as well as emails between the University and Student A and Student B), investigative notes, meeting notes, no-contact directives, and other documents related to the allegation in this complaint.

4. If not included above, a list of any individual(s) interviewed in response to the allegation and the notes and/or audio recording(s) of any such interview(s).

5. A copy of any findings or statements of fact.

6. A description of any action taken as a result of the investigation, and, if applicable, a written explanation of the reason(s) for not taking any action in response to Student A's report(s) of sexual violence and/or retaliation.

7. A description of all of the information provided to Student A by the University (e.g., resources) subsequent to her filing her Non Responsive complaint of sexual violence.

8. A copy of the complete discipline file for Student B, the alleged perpetrator.

9. Copies of files of reports of sexual violence, misconduct, or harassment filed with the University since its April 2015 response to OCR's data request for OCR #05-14-2081.

10. Any other information the University deems relevant to this complaint.

Thank you for your cooperation in this matter. In addition to the information requested above, OCR may need to request additional information and interview pertinent personnel. If an on-site visit is necessary, we will work to schedule a mutually convenient time for the visit.

Please notify OCR of the name, address, and telephone number of the person who will serve as the University's contact person during the processing of this complaint. We would like to talk with this person as soon as possible to discuss the processing of this complaint and at that time, we will provide the identities of Students A and B.

OCR is committed to prompt and effective service. If you have any questions, please contact Ms. Amy A. Truelove, Senior Equal Opportunity Specialist at 312-730-1610 or by email at amy.truelove@ed.gov.

Sincerely,

Dawn R. Matthias

Dawn R. Matthias
Team Leader

Enclosure