



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 2012

President Royce C. Engstrom
Office of the President
The University of Montana
Missoula, MT 59812-3324

Re: Title IX Compliance Review and Title IV Investigation of University of Montana

Dear President Engstrom:

We are writing about a subject that we know is of considerable concern to you: the allegations of sexual assault and harassment on the campus of the University of Montana ("the University") and the University's response to those allegations. We appreciate your efforts to take initial steps to address this deeply troubling situation, and write to alert you to our next steps.

As you know, Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681(a) *et seq.* ("Title IX"), prohibits discrimination on the basis of sex in education programs and activities operated by recipients of federal assistance. Because the University receives federal financial assistance from the Department of Justice ("the Department"), among other federal agencies, it is subject to the provisions of Title IX. The Department is charged with ensuring that its grantees comply with Title IX and other federal civil rights laws. As a result, we are initiating a compliance review of the University under Title IX. We also are commencing an investigation of the University pursuant to Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6 ("Title IV"), which the Department is charged with enforcing. Title IV prohibits public colleges from discriminating against students on the basis of sex, race, color, religion, or national origin irrespective of federal financial assistance. *See id.* The Department will be conducting this investigation simultaneously with its Title IX compliance review, and our analysis will be similar under both statutes.

Our Educational Opportunities Section, working alongside our Special Litigation Section, will be handling this matter jointly with the United States Attorney's Office for the District of Montana. The Special Litigation Section is initiating a related investigation of the University's Office of Public Safety, the Missoula Police Department, and the Missoula County Attorney's Office, pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §

14141, and the pattern or practice provisions of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d. Notice of the investigation of the Office of Public Safety will be provided to the University separately. In addition, we are aware that the Office for Civil Rights at the United States Department of Education has received a complaint relating to sexual assaults at the University, and we will be coordinating with that Office as we move forward in our Title IX and Title IV investigations. We assure you that we will seek to minimize any potential disruption that our investigations may have on the operations of the University.

At the outset, we wish to emphasize that we have not reached any conclusions about the subject matter of the Title IX compliance review and Title IV investigation. We will seek to determine whether the University has met its obligations under Title IX and Title IV not to discriminate on the basis of sex with respect to handling student complaints of sexual assault and harassment. Among other incidents, we will investigate the eleven sexual assaults of University students referenced in your March 22, 2012 Sexual Assault Report.¹ In addition, we will conduct a comprehensive review of the University's policies and practices related to sexual assault and harassment, including the policies of the University of Montana at Missoula's Office of Public Safety. We will consider all relevant information, including steps the University has publicly announced it is taking to address sexual assaults of its students and any other efforts the University has undertaken to ensure compliance with federal law. In the near future, we will be sending you a request for documents and other information, and may have follow-up requests of this nature during our review and investigation. We also will seek to interview University officials, other University personnel, students who have allegedly been sexually assaulted and/or harassed, representatives of relevant community-based organizations, and others with pertinent information about this matter.

Once the Department completes its investigation, we will notify you of our conclusions. If we conclude that the University has not violated Title IX or Title IV, we will close the compliance review and investigation. If, on the other hand, we conclude that the University is not in compliance with Title IX and/or Title IV, we will inform you of our findings and seek to reach agreement regarding how the University can best come into compliance with the law. The Department's goal is to work in close collaboration with the University throughout the compliance review and investigation and to resolve any concerns in an expeditious manner, without resorting to contested litigation.

As you know, Title IX prohibits the University and others, including students, from retaliating against any individual "for the purpose of interfering with any right or privilege secured by [Title IX]," or because that individual "has made a complaint, testified, assisted, or

¹ See Royce C. Engstrom, Sexual Assault Report 1-2 (2012).

participated in any manner in an investigation, proceeding, or hearing” under Title IX.² Prohibited retaliatory acts include intimidation, threats, coercion, or discrimination against any such individual.

We will contact you soon to discuss the next steps of our investigation. The Educational Opportunities Section may be reached by contacting Chief Anurima Bhargava, Deputy Chief Emily McCarthy, or Attorney Tamica Daniel at (202) 514-4721. The United States Attorney’s Office may be reached by contacting United States Attorney Michael Cotter at (406) 457-5120.

We appreciate your cooperation with our investigation, look forward to continuing to work collaboratively with you and others at the University, and are confident that our joint efforts will ensure a safe environment for the University’s students.

Sincerely,



Thomas E. Perez
Assistant Attorney General



Michael W. Cotter
United States Attorney

cc: Gary Taylor
Chief of Office of Public Safety
The University of Montana

² See 28 C.F.R. 42.107(e); see 28 C.F.R. 54.605 (adopting procedures of Title VI of the 1964 Civil Rights Act at 28 C.F.R. 42.106-42.111 and applying them to the Title IX regulations).