
From: Mark Perry [REDACTED]
Sent: Thursday, April 15, 2021 9:01 PM
To: 'Chen, Stephen' [REDACTED]
Cc: 'OCR DC' [REDACTED]; 'OCR Denver' [REDACTED]
Subject: RE: Case No. 08-19-2223

Hello Stephen:

It's now been 638 days (21.3 months or 1.72 years) since I filed a simple, straightforward Title IX complaint vs. the University of Utah on July 17, 2019, for a single, single-sex, female-only program called Hi-Girls Engineering Abilities Realized (HI-GEAR). I later requested on September 14, 2020, that a second single-sex, female-only violation at the University of Utah be added to my original complaint (#08-19-2223) or considered as a second complaint. On several occasions, I provided additional information about my complaints as you requested and have made numerous requests for updates on the status of my complaint, but the complaint has remained under evaluation for almost two years now.

This is an unprecedented amount of time for OCR to evaluate a simple Title IX complaint and either open the complaint for investigation or dismiss the complaint for failing to meet OCR guidelines or requirements in accordance with your Case Processing Manual. Unfortunately, the most obvious reason to me for such an unprecedented delay and for OCR not fulfilling its legal obligations is that this is an example of OCR acting in bad faith. I hope that is not the case and would request that the Denver OCR either open this case (#08-19-2223) for evaluation or dismiss it in accordance with OCR regulations.

Perhaps this complaint should be assigned to another OCR attorney at the Denver OCR or another OCR regional office. As a complainant who has filed more than 300 Title IX complaints for more than 1,000 violations that have resulted in more than 150 investigations and almost 50 resolutions I can say that I have never experienced a case that has remained open for evaluation for such a long, unacceptable period of time and have never felt that OCR was acting in bad faith except for Case No. 08-19-2223.

Thank you in advance for promptly opening this case for investigating or dismissing it for cause.

Professor Mark J. Perry, Ph.D.

From: Mark Perry [REDACTED]
Sent: Thursday, March 4, 2021 12:49 PM
To: 'Chen, Stephen' [REDACTED]

[REDACTED]

Cc: 'OCR DC' [REDACTED] 'OCR Denver' [REDACTED]

Subject: RE: Case No. 08-19-2223

Hello Stephen:

We're not too far away now from the two-year anniversary of when I filed a Title IX complaint in July 2019 vs. the University of Utah (Case No. 08-19-2223). I have filed 300 Title IX complaints with all 12 regional OCR offices and have never experienced that long of a delay for a simple complaint to be evaluated and either opened for investigation or dismissed, so I'm trying to understand what could cause such a long delay for the evaluation of a single allegation (although I added a second allegation at a later date). I recently had a complaint evaluated, opened for investigation and resolved by the San Francisco OCR within a six-month period, so it's difficult to understand how it could take to so long at the Denver OCR (almost two years) to have a simple complaint evaluated and either opened for investigation or dismissed.

Thanks in advance for your consideration of Case No. 08-19-2223 and any explanation of what could cause such an unprecedented delay,

Professor Mark J. Perry, Ph.D.

From: Chen, Stephen [REDACTED]
Sent: Monday, January 18, 2021 10:31 AM
To: Mark Perry [REDACTED]
Cc: OCR DC [REDACTED]
Subject: RE: Case No. 08-19-2223

Thanks for your email. I'll include it in the file.

From: Mark Perry [REDACTED]
Sent: Monday, January 18, 2021 7:32 AM
To: Chen, Stephen [REDACTED]
Cc: OCR DC [REDACTED]
Subject: RE: Case No. 08-19-2223

Hello Stephen:

According to the most recent [OCR guidelines/technical assistance](#):

[REDACTED]

May a college or university separate or exclude individuals on the basis of sex from academic or extracurricular activities?

Generally, a college or university may not provide or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation by any of its students on the basis of sex.

The OCR then provides three exceptions (none of which apply to the two programs at the University of Utah) and in that case a “college or university is generally prohibited from separating students on the basis of sex.”

Further:

OCR has required that institutions of higher education ensure that a program or activity is coeducational (that is, open to members of both sexes) where the title of an academic or extracurricular activity raises an inference that the school imposes a preference or restriction based on sex. OCR has required institutions to implement strategies (including review of the design and content of their website and review of the procedures for promotion of and recruitment for the activity) to ensure that the institutions are communicating effectively to the university community and the public that the activity, notwithstanding the name, is open to all students and participants regardless of sex.

The OCR then provides a link to OCR’s letter to the president of Duke University that summarizes the resolution of one of my Title IX complaints for single-sex, female-only programs at Duke that are similar to the discriminatory programs at the University of Utah. Attached is the full Voluntary Resolution Agreement between the OCR and Duke.

Therefore, according to the OCR’s recently issued technical assistance guidelines and based on the many recent VRAs and other resolutions for single-sex, female-only programs like the ones at Duke, I think the case is now even stronger that the University of Utah is violating Title IX’s prohibition of sex discrimination for the following two programs:

1. The **Hi-GEAR (Girls Engineering Abilities Realized) Camp**, which as the name indicates and as the eligibility requirements confirm is a single-sex, girl-only program that is for **female high school students only**, and is designed “to expose **young women [but not young men]** to a variety of engineering and computer science careers with hands-on experiential learning and collaborative team projects.”

This program is clearly NOT a coeducational program that is open to all genders as required by Title IX and the OCR but is clearly a program that is restricted to girls only (or has a strong

preference for girls over boys) in violation of Title IX.

2. The [Women's Leadership Certificate](#) which as the name indicates and the eligibility requirements confirm is also a single-sex, female-only program that is offered for women only. The program specifically focuses on “the skills many **women** desire, for navigating the modern business landscape as a **woman** in a leadership position. Typical participants are **women in mid- to senior-level positions** who want to advance within their organization or make career change.”

The program is clearly NOT a coeducational program open to all genders as required by Title IX and the OCR, but is clearly a female-only program that operates exclusively for women and illegally excludes men. Please note that the [Application Form](#) does NOT even have a field for “Sex” or “Gender” which further confirms that this is a single-sex, female-only program that illegally excludes men.

Please add this email and the information above to my complaint case file. And just to update the long delay in reviewing this complaint, it's now been 551 days since I first filed this complaint in July 2019. I don't think I have ever had a simple evaluation take this long and I've filed almost 300 complaints now so I have some experience with OCR evaluations. In many cases, it's only taken 30 days for an evaluation and then a subsequent resolution in a far shorter time than 551 days.

Professor Mark J. Perry, Ph.D.

From: Chen, Stephen [REDACTED]
Sent: Tuesday, January 12, 2021 2:38 PM
To: Mark Perry [REDACTED]
Subject: RE: Case No. 08-19-2223

Hi, Mr. Perry.

Your complaint is being reviewed. We've initiated some investigative actions so that we could review the scope of the complaint and understand the context around it.

-Stephen

From: OCR Denver [REDACTED]
Sent: Tuesday, January 12, 2021 12:33 PM
To: Chen, Stephen [REDACTED]
Subject: FW: Case No. 08-19-2223

[REDACTED]

From: Mark Perry [REDACTED]
Sent: Monday, January 11, 2021 3:32 PM
To: OCR DC [REDACTED] DCR Denver [REDACTED]
Subject: Case No. 08-19-2223

Dear OCR and Denver OCR:

I'm writing to get an update on my Title IX complaint #08-19-2223 vs. the University of Utah. I filed the complaint on July 17, 2019 with a promise that the complaint would be evaluated within 30 days to determine whether it would be open for investigation. It's now been **544 days** since I first filed the complaint and I haven't yet received notification whether this complaint will be opened for an investigation.

Please advise.

Professor Mark J. Perry (email correspondence preferred)



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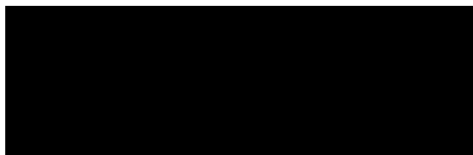
Mark J. Perry, Ph.D.

Scholar at [The American Enterprise Institute](#)

Professor of Finance and Business Economics

School of Management, University of Michigan-Flint

Faculty Affiliate, Women's and Gender Studies Program, University of Michigan-Flint



Carpe Diem Blog: <http://www.aei.org/publication/blog/carpe-diem/>

Twitter: twitter.com/Mark_J_Perry

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