



Appeals court reversing decision dismissing UT Title IX complaint



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The U.S. 6th Circuit Court of Appeals has reversed a decision by a federal judge in Toledo to dismiss a Title IX lawsuit alleging the University of Toledo ignored sexual-harassment complaints against a professor.

The Cincinnati appellate court ruled that several harassment thresholds that U.S. District Judge James G. Carr applied to the lawsuit when he dismissed it in October properly addressed student-student harassment, but do not fit for teacher-student sexual harassment.

“In granting [the university’s] motion to dismiss, the district court appears to have determined, based on factual inferences, that UT’s investigation was reasonable as a matter of law. But the district court was required to ‘construe the complaint in the light most favorable to the plaintiff’.... It appears that the district court did the opposite, drawing all reasonable inferences in favor of UT,” Circuit Judge Helene N. White wrote in the appeals court’s judgment.

“We are reviewing the opinion from the 6th Circuit Court of Appeals and reviewing our options. While the university declines to comment further on pending litigation, the safety of our students is a top priority and we strive to ensure UToledo is a safe and welcoming environment,” Christine Billau, a UT spokesman, said in a written statement.

A University of Toledo undergraduate student filed the Title IX complaint against the school in May accusing administrators of failing to investigate multiple reports of sexual harassment by Erik Tyger, a former communications department professor. Title IX is a federal law forbidding educational institutions from discriminating on the basis of gender or sex.

The university argued in its motion to dismiss that the student had failed to prove she was subjected to “severe, pervasive, and objectively offensive harassment” or that she was “subjected to further sexual harassment after notifying the university of her complaint,” records show.

Those standards had been established in a case from Michigan State University that involved one student’s harassment of another.

The student’s attorney, Peter Pattakos, said in a written statement he was glad the appellate panel recognized the important differences between teacher-on-student and student-on-student harassment.”

“The court’s clarification of the different legal standards that apply to these different types of claims will help ensure that reports of sexual harassment are properly investigated and addressed by educational institutions, and that victims will have recourse to Title IX’s protections when they are not,” Mr. Pattakos said, adding that the ruling will hopefully ensure other victims do not have to suffer in the same way this UT student did.

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Mr. Tyger was hired by the university in 2017 and worked closely with students, including assisting them with UT:10 News, a student-produced newscast, according to the complaint.

University officials previously reported that Mr. Tyger was fired and last worked at UT on May 10, 2019.

According to Ms. Billau, Mr. Tyger is currently in arbitration challenging his dismissal. He is represented by the American Association of University Professors.

The original complaint alleged UT knew about the sexual harassment allegations involving the student as early as May, 2018, but the administration took a year and senior faculty involvement before acting on Mr. Tyger's employment.

During that time the student avoided campus, sought to change her major, and enrolled in online courses almost entirely in fear she would come in contact with Mr. Tyger, whom the university's communication department then still employed.

The lawsuit accused Mr. Tyger of making repeated unwanted sexual advances on May 2, 2018 toward the student while she worked on a project for his class, including sexual comments and inappropriate touching.

Mr. Tyger was additionally accused of sending the student text messages seeking details about her work schedule, to which the student did not

respond.

Soon after the misconduct allegedly occurred, the student contacted another professor. Both she and the professor made a report to the University of Toledo's Title IX Office, the complaint reported.

However, despite the university's own policy that it will act promptly in response to reported sexual harassment, UT took no action and did not respond "to the first two reports until six months later, when it received yet a third report" from another professor of sexual misconduct, court records allege.

The student received a letter Nov. 7, 2018 confirming the university's office received an incident report naming her as a victim of sexual harassment. Mr. Tyger was placed on administrative leave and prohibited from coming onto campus 20 days later, the complaint stated.

"[The student's] claim is bolstered by the fact that six months later, when the investigation was reopened based on a third complaint by a more senior faculty member, UT found [the student's] original allegations credible and terminated Tyger's employment," Judge White noted in the appellate ruling.

The Blade is not identifying the student because of the allegations of sexual harassment.

The complaint will return to U.S. District Court in Toledo.

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