

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-15-324-C
)	
1. SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY, and)	
)	
2. THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA)	
)	
Defendant.)	

**ANSWER OF DEFENDANT REGIONAL UNIVERSITY SYSTEM OF
OKLAHOMA TO PLAINTIFF’S COMPLAINT**

Defendant, Regional University System of Oklahoma, (“RUSO”), for its answer to Plaintiff’s Complaint, admits Plaintiff’s allegations contained in the Complaint only to the extent specifically set forth below. To the extent any matters are not explicitly admitted, they are denied. RUSO hereby provides its Answer as follows:

1. RUSO admits Plaintiff has brought this action to enforce Title VII, but denies Southeastern Oklahoma State University (“SEOSU”) or RUSO subjected Dr. Rachael Tudor to unlawful sex discrimination and retaliation or that either defendant violated Title VII. RUSO denies that it made any employment decision regarding Dr. Tudor based on gender or on her transgendered status.

2. RUSO admits Dr. Tudor worked for Southeastern as a tenure track assistant professor from 2004 to 2011, but is without sufficient knowledge to admit or deny the remaining allegations in Paragraph 2.
3. RUSO admits the allegations in Paragraph 3.
4. In response to Paragraph 4, RUSO denies that SEOSU and RUSO are a single employer for all relevant purposes. RUSO admits RUSO's Board of Regents is the governing board for SEOSU, and that RUSO's Policy Manual addresses the manner in which RUSO's and SEOSU's operations interrelate. RUSO admits RUSO has the power to fix compensation and personnel duties at SEOSU, but RUSO has the power to delegate that power to the respective presidents pursuant to 70 O.S. §3510(d), which it has done. RUSO denies SEOSU's President must report to RUSO on all matters related to employment, discipline, and termination of faculty.
5. RUSO admits the allegations in Paragraph 5.
6. RUSO admits the allegations in Paragraph 6.
7. RUSO admits the allegations in Paragraph 7.
8. In response to Paragraph 8, RUSO admits Dr. Tudor filed a charge of discrimination, but denies the allegations contained in such charge. RUSO was not named as the employer or a responsive party and was never notified by DOE or EEOC other than through SEOSU.
9. In response to Paragraph 9, RUSO admits Dr. Tudor supplemented her charge of discrimination, but denies the allegations contained in the supplemental charge.

RUSO was not named as the employer or a responsive party in Dr. Tudor's supplemental charge.

10. In response to Paragraph 10, RUSO denies the EEOC notified RUSO of the supplemental charge of discrimination, but admits that EEOC allegedly investigated these charges, and that EEOC contends the investigation revealed Dr. Tudor was subjected to sex discrimination and retaliation (as well as religious discrimination, which is not alleged in this lawsuit.) RUSO also admits that EEOC subsequently referred the case to the U.S. Department of Justice. RUSO denies that reasonable cause was found to believe SEOSU discriminated or retaliated against Dr. Tudor, and denies the EEOC notified RUSO of its reasonable cause or its findings. Upon information and belief, RUSO denies EEOC attempted to conciliate the charges in good faith, and further states that EEOC refused SEOSU's request for mediation, notifying SEOSU that this charge was not eligible for mediation.

11. RUSO denies the allegations in Paragraph 11.

FACTS

Unless otherwise noted, RUSO has no specific knowledge of the allegations and therefore adopts and incorporates by reference the Answer filed by SEOSU.

12. In response to the allegations in Paragraphs 12 through 64, RUSO adopts and incorporates by reference the Answers to these Paragraphs filed by SEOSU.

13. Paragraphs 65-69 do not assert factual allegations against RUSO, and therefore do not require a response.

14. In response to Paragraph 70, RUSO adopts and realleges its responses to Paragraphs 1-69.
15. RUSO denies the allegations contained in Paragraph 71, and further states RUSO never took any action relative to Dr. Tudor's application for promotion and tenure, and never discriminated against Dr. Tudor.
16. RUSO denies the allegations contained in Paragraph 72 and further states RUSO never took any action relative to Dr. Tudor's application for promotion and tenure, and never discriminated against Dr. Tudor.
17. RUSO denies the allegations contained in Paragraph 73, and denies it took any action relative to Dr. Tudor's application for promotion and tenure.
18. RUSO denies the allegations contained in Paragraph 74, and denies it discriminated against Dr. Tudor.
19. In response to Paragraph 75, RUSO adopts and realleges its responses to Paragraphs 1-74.
20. RUSO denies the allegations contained in Paragraph 76, denies it took any action relative to Dr. Tudor's application for promotion and tenure, and denies it retaliated against Dr. Tudor.
21. RUSO denies that the reasons given by SEOSU for not allowing Dr. Tudor to re-apply were a pretext for unlawful retaliation, and further denies it had any involvement with Dr. Tudor's reapplication process, as alleged in Paragraph 77.

22. RUSO denies that either Defendant engaged in retaliation against Dr. Tudor, unlawful or otherwise, and denies Dr. Tudor incurred damages as a result of unlawful conduct by Defendants, as alleged in Paragraph 78.

IN RESPONSE TO PLAINTIFF’S PRAYER FOR RELIEF, AND EACH OF ITS SUBPARTS, RUSO STATES THE FOLLOWING:

Defendants did not engage in any discriminatory or retaliatory conduct, and therefore Plaintiff is not entitled to any of its requested relief.

AFFIRMATIVE DEFENSES

1. Plaintiff and/or Dr. Tudor have failed to exhaust administrative remedies.
2. Plaintiff has failed to conciliate in good faith.
3. Plaintiff and/or Dr. Tudor failed to mitigate damages.
4. RUSO was not involved in Dr. Tudor’s tenure application process or denial, or her subsequent grievance. Any actions by RUSO affecting Dr. Tudor were non-discriminatory, done in good faith, and done for legitimate business reasons.
5. Plaintiff was denied tenure and promotion because her work and her service did not meet the necessary standards, and therefore her portfolio did not meet SEOSU’s policy requirements.
6. Plaintiff was given the opportunity to withdraw her portfolio due to the likelihood of tenure and promotion denial, but she refused.
7. RUSO and SEOSU are not a “single employer” as alleged by Plaintiff.

8. Some or all of Plaintiff's claims are barred by statutes of limitations and/or laches.
9. Failure to state a claim upon which relief can be granted.
10. Transgender is not a protected class under Title VII.
11. To the extent that Plaintiff pursues unfounded claims and claims for which it relies upon facts that known to be untrue, and intentionally presents facts in a misleading fashion to the Court that are frivolous at best, RUSO will pursue costs and attorney's fees from Plaintiff.
12. After-acquired evidence.
13. Eleventh Amendment immunity.
14. Sovereign immunity pursuant to the Tenth Amendment to the U.S. Constitution.

/s/Dixie L. Coffey

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of April, 2015, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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