

**Resolution Agreement
Wittenberg University
OCR Docket Numbers 15-11-2115, 15-13-2141**

Wittenberg University (the “University”) submits this Resolution Agreement to the U.S. Department of Education, Office for Civil Rights (“OCR”), to resolve the above-referenced complaint to ensure compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106.

The University shall not be deemed or construed in any manner whatsoever to have made any admission of liability by the negotiation, performance, terms, or conditions of this Resolution Agreement. Rather, the University has entered into this Resolution Agreement to conclude OCR’s investigation and to confirm that its Title IX program is compliant with Title IX. The University has improved and updated its Title IX program during the course of the OCR’s investigation. The University agrees to continue its program of responding to all incidents of sexual harassment and sexual violence¹ of which the University has notice (including incidents that the University knew or reasonably should have known about), by taking prompt and effective steps to end sexual harassment and violence; eliminating any hostile environment; preventing its recurrence; and, as appropriate, remedying its effects, as required by Title IX.

A. Notice of Nondiscrimination

By June 30, 2017, the University will adopt and publish an updated Notice of Nondiscrimination that meets the requirements of Title IX. The University will publish the updated Notice of Nondiscrimination including on the University’s website and in its promotional materials, student and employee handbooks, application forms, and its other published materials in accordance with 34 C.F.R. § 106.8(a), and will remove any previously existing Notices of Nondiscrimination from the materials published on its website. For published materials with dates that do not fall before the reporting date, the University agrees to update such publications on their next printing.

Reporting Requirement: By June 30, 2017, the University will report to OCR with a list of the titles of the publications in which the amended notice of nondiscrimination appears or will appear upon next printing (e.g. University catalog, website, student handbook) and a copy of at least one revised publication, such as by link to an online publication, containing the notice and a list of the publications from which the previous versions of its notices of nondiscrimination were removed or will be removed upon next printing.

B. Title IX Policies and Grievance Procedures

By June 30, 2017, the University will submit for OCR review and approval an additional prompt and equitable Title IX grievance procedure or a revised version of its current Title IX sexual misconduct grievance procedure to clarify the University procedures that apply to complaints alleging all forms of sex discrimination (not limited to sexual harassment and sexual violence) by employees, students, or third parties under Title IX. The University will also review and revise as necessary (e.g., through the addition of cross-references, changes to document titles, etc.) its website, publications, and other materials containing information regarding the University’s procedures for addressing sex discrimination, harassment, and violence to make clear which

¹ The category of sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.

procedure can be used for complaints alleging any form of sex discrimination consistent with its Title IX obligations and its implementing regulation at 34 C.F.R. § 106.8(b).

Reporting Requirement 1: By June 30, 2017, the University will provide OCR with a copy of its amended Title IX grievance procedures that apply to all forms of sex discrimination for review and approval.

Reporting Requirement 2: Within 60 calendar days of receiving approval from OCR, the University will publish the amended procedures and will report to OCR with a list of the titles of the publications in which the amended procedures appear (e.g., student handbook, website, employee manual) along with either a copy of the publication or a link to where the publication appears online. (Inserts containing the revised Title IX procedures may be used for materials that have yet to be reprinted).

Reporting Requirement 3: By June 30, 2017, the University will submit to OCR a summary of all Title IX matters, including, but not limited to, allegations by students, staff, and third parties that allege sex discrimination, sexual harassment, or sexual violence during the 2016-17 academic year, including informal complaints and filed grievances. By June 30, 2018, the University will submit to OCR a summary of all such grievances filed during 2017-18 academic year and by June 30, 2019, the University will submit to OCR a summary of all such grievances filed during 2018-19 academic year. The summaries shall include the date the matter came to the attention of the University, the underlying allegations, whether the matter is open, the date the matter was closed, and a summary of the resolution. OCR will review this information to determine if the University is processing the complaints in accordance with the Title IX regulation, its OCR-approved Title IX procedures, and the terms of this agreement. OCR shall have the right to request additional information and documents regarding any of the matters on the summaries.

C. Coordination With Police Department

By June 30, 2017, the University will publish a policy addressing communication between the University's Title IX Coordinator and designees with the University's Police Department. The policy will address: (1) Consistent with the University's FERPA obligations, the University agrees that its Police Department and its Title IX Coordinator and designees will communicate on a regular and timely basis regarding all Title IX issues; (2) coordinated training will take place before January 1, 2018, that will update both departments on their Title IX obligations and confirm the coordinated communication between the departments; and (3) when the Police Department is involved in any aspect of the Title IX investigatory process that the involvement and the results of the involvement will be disclosed to the Hearing Panel before any Title IX determination is issued.

Reporting Requirement 1: By June 30, 2017, the University will provide OCR with a copy of its policy.

Reporting Requirement 2: By June 30, 2018, the University will provide OCR with documentation that the coordinated training has taken place, to include a copy of any materials used, and verifying that the University is implementing its published policy.

D. Title IX Training

The University will continue to provide annual training regarding the University's obligations pursuant to Title IX to respond to all incidents of sex discrimination, including sexual harassment and sexual violence, of which the University has notice (including incidents that the University knew or reasonably should have known about). The training will also cover Title IX's prohibition against retaliation and will specifically reference the University's OCR approved Title IX procedures. The above training will be provided to the following groups, and may be differentiated to their specific roles and responsibilities under Title IX: (1) Title IX Coordinators and investigators, University police, Student Conduct Hearing Board Members, and other staff directly involved in processing, investigating, adjudicating and/or resolving Title IX complaints; (2) all other staff responsible for recognizing and reporting incidents of sex discrimination, sexual harassment, and violence, including but not limited to resident assistants, faculty, administrators, counselors, general counsel, athletic personnel, health personnel, and any other responsible employees; (3) University students; and (4) University athletes.

Training for employees directly involved in processing, investigating, adjudicating and/or resolving Title IX complaints will include instruction on how to conduct and properly document adequate, reliable, and impartial investigations into any complaints or reports made pursuant to the procedures. The training will also cover the right of a victim to simultaneously pursue a criminal complaint with law enforcement and a complaint with the University regarding the same incident. Further, the training will cover the importance of accountability for individuals found to have engaged in sex discrimination, sexual harassment, or sexual violence; but will also emphasize the need for remedies for the complainant, and others, as necessary, to address the discrimination or harassment, when it is found to have occurred. The University shall continue to offer mandatory training for all new University students and to offer a variety of voluntary training opportunities to all students.

Reporting Requirement 1: By June 30, 2017, the University will submit to OCR for review and approval information regarding the training program specific to each of the above groups, including documentation of any materials to be used, the names and title(s) of any trainers.

Reporting Requirement 2: By June 30, 2018, and the same date in 2019, the University will provide documentation to OCR demonstrating that it has provided the training referenced above. The documentation will include, at a minimum, the date(s) of the training; the name(s) and title(s) of the trainer(s); identification of who was required/invited to attend the session and for training for University staff, a corresponding sign-in sheet with the names and titles of the individuals who attended the training; as well as participation data.

E. Remedies for Individual OCR Complainants

1. By June 30, 2017, the University will issue a letter to Student A that explains the actions the University has taken over the last several years to improve its response to complaints alleging sexual assault. The letter shall at a minimum discuss the following:

- a. Revisions made to the University's Title IX policies and procedures to ensure that complaints of sex discrimination, including sexual harassment and assault are processed promptly and equitably.
- b. Actions to assess the campus climate around issues of sexual harassment and assault.
- c. Efforts to expand and improve education and training opportunities for student and staff.
- d. Steps taken to improve supports for students who may have experienced sexual harassment or sexual assault, such as partnerships with community resources.

In addition, the letter will offer Student A, at the University's expense, reimbursement for counseling for a period of up to one year, either counseling that Student A already obtained following the date of the incident(s) at issue in this complaint or will obtain in the one year following the date of this agreement, for an amount not to exceed \$2000.00. With regard to reimbursement, the letter will request that Student A provide the University with receipts or other documentation verifying the counseling during the applicable time period, if any, and the amount paid by Student A or Student A's family.

2. By June 30, 2017, the University will issue a letter to Student B that explains the actions the University has taken over the last several years to improve its response to complaints alleging sexual assault. The letter shall at a minimum discuss the topics set forth at items E.1.a through E.1.d above. In addition, the letter will offer Student B, at the University's expense, reimbursement for counseling for a period of up to one year, either counseling that Student B already obtained following the date of the incident(s) at issue in this complaint or will obtain in the one year following the date of this agreement, for an amount not to exceed \$2000.00. With regard to reimbursement, the letter will request that Student B provide the University with receipts or other documentation verifying the counseling during the applicable time period, if any, and the amount paid by Student B or Student B's family.

Reporting Requirement 1: By June 30, 2017, the University will submit to OCR copies of its correspondence to both students.

Reporting Requirement 2: By June 30, 2018, the University will submit to OCR documentation verifying that it provided the reimbursement for counseling services, as applicable to Students A and B and as supported by documentation from the Students.

F. Title IX Coordinator: Monitoring Program

1. By August 1, 2017, the University's Title IX Coordinator(s) will: review complaints and reports of the sex discrimination, sexual harassment, and sexual violence it received from the 2010-11 through 2015-16 academic years to determine whether the University investigated each complaint or report promptly and to determine whether the University investigated each complaint or report equitably, including but not limited to, and determining whether the University used appropriate definitions and applied the preponderance of the evidence standard under Title IX; provided both parties an opportunity to submit evidence and identify witnesses; provided appropriate interim relief for the complainant and others from further harassment or retaliation while the complaint was processed; provided written notice of the outcome (including any appeal) and appeal rights to the complainant and the accused; and took steps to address any discrimination, prevent its

recurrence, and remedy its effects on the alleged victims and others, including the University community as a whole, where appropriate. For academic years 2010-11, 2011-12, 2012-13, and fall semester 2013-14 the University will focus its review, as described above, only on the limited subset of matters involving alleged rape as well as those cases processed either through the informal complaint process or through assisted resolution as part of the formal complaint process. The University will review, as described above, all complaints and reports of the sex discrimination, sexual harassment, and sexual violence it received during the spring semester 2013-14 and academic years 2014-15, and 2015-16. The University's Title IX Coordinator(s) will submit for OCR review and approval a plan to take appropriate action to address any problems identified in the manner in which these complaints were handled; including providing appropriate remedies that may still be available for the complainants in these cases, such as counseling or reimbursement for counseling, academic assistance or adjustments; tuition or housing reimbursements; or other appropriate relief.

Reporting Requirement 1: By August 1, 2017, the University will submit to OCR for review and approval the results of its limited reviews for the 2010-11, 2011-12, 2012-13 and fall semester 2013-14 academic sessions and the full reviews of spring semester 2013-14, and academic years 2014-15, and 2015-16 conducted pursuant to the section above, specifically identifying those cases relevant to the limited review, as well as any complaints or reports that the University determined were not handled promptly and/or equitably and providing a summary of case files related to the University's review (to include the date the matter came to the attention of the University, the underlying allegations, whether the matter is open, the date the matter was closed, and a summary of the resolution), as well as the University's planned action(s) to address any problems identified in the review. OCR shall have the right to request additional information and documents regarding any of the matters on the summaries.

Reporting Requirement 2: Within 60 calendar days of OCR's approval, the University will take appropriate action to address any problems identified in its review and will provide OCR with documentation that it implemented any necessary remedial actions.

2. By August 1, 2017, the University's Title IX Coordinator(s) will provide OCR documentation of its monitoring program developed to annually assess the effectiveness of the University's overall efforts to prevent sex discrimination, including sexual harassment and sexual violence in the University's programs and activities. At a minimum, the Title IX Coordinator(s) will annually: review all formal and informal complaints of discrimination on the basis of sex (including sexual harassment and sexual violence) received; review all information collected pursuant to climate checks; consult with and take into consideration the recommendations and suggestions made by the University's existing Sexual Misconduct Advisory Committee; compile, evaluate, and analyze data collected, including an assessment of whether incidents of harassment have increased or decreased in number and severity; and propose recommendations for improvement of the University's program to prevent further incidents along with timelines for implementation of the recommendations. The Coordinator will also through the monitoring program ensure that University is maintaining sufficient records with respect to complaints/allegations received under Title IX, including documentation of the following: records of complaints/allegation(s) and when it was brought to the University's attention; any steps taken to investigate the allegation(s);

interim measures offered and provided when requested; information reviewed by the hearing panel; any written findings issued to the parties or any informal resolution obtained; remedies ordered, including any remedies provided to individuals found to have been subjected to sex discrimination, sanctions imposed, and other actions the University took to address the matter; and documentation of interactions with law enforcement, if any.

Reporting Requirement 1: By August 1, 2017, the University will provide OCR with a documentation of its existing monitoring program.

Reporting Requirement 2: By June 30, 2018, and again by June 30, 2019, the University will provide OCR with documentation that the Title IX Coordinator(s) has completed an annual review consistent with this program. This documentation will include information about the number of complaints received, the type of complaint (sex discrimination, sexual harassment, or sexual violence,), a general description of the outcome of the complaints (such as, accused found responsible, accused found not responsible, etc.), any trends or patterns identified, any recommendations made by the Title IX Coordinator(s), any actions taken in response to those recommendations, and if recommendations are not accepted, a written explanation detailing the University's rationale for rejection of the recommendation.

GENERAL REQUIREMENTS

The University understands that OCR will not close the monitoring of this agreement until OCR determines that the University has fulfilled the terms of this agreement and is in compliance with Title IX and its implementing regulation at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this case.

The University understands that, by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the University understands that during the monitoring of this agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this agreement and is in compliance with Title IX and its implementing regulation at 34 C.F.R. §§ 106.8, 106.9, and 106.31.

The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings, including to enforce this agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

President or designee
Wittenberg University

March 7, 2017

Date