

## RESOLUTION AGREEMENT

University of Kansas

OCR Docket Number 07122007

The U.S. Department of Education, Office for Civil Rights (OCR), conducted a complaint investigation of the University of Kansas (University), Lawrence, Kansas, pursuant to Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code (U.S.C.) § 1681, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance (FFA).

The complainant alleged the University discriminated against her, a female student, by failing to take prompt and appropriate investigative and remedial action in response to her reported sexual assault (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Before OCR completed its investigation, the University agreed to take the following actions:

### POLICIES AND PROCEDURES

1. By June 15, 2012, the University will revise its policies and procedures to ensure that students enrolled in the University are not subjected to a hostile environment on the basis of sex, and to ensure that all incidents of sexual harassment of which the University has notice are promptly investigated and appropriate disciplinary actions are taken with respect to students, faculty or staff who violate University policies and procedures addressing sexual harassment. The revised policies and procedures must address, or clarify current practices and policies, as follows:
  - (a) Allegations of sexual harassment are evaluated using a preponderance of the evidence standard;
  - (b) The grievant's option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the University's disciplinary process, or to pursue both processes simultaneously;
  - (c) Upon receipt of a sexual misconduct/assault complaint or report, the University will provide the grievant a written notice of his or her right to file a criminal complaint with a law enforcement agency, in addition to pursuing the University's investigation and disciplinary process. The University investigator is prohibited from attempting to dissuade a grievant from filing a criminal complaint or police report or asking the grievant to wait to file a criminal complaint or police report until after the conclusion of the University investigation. The written notice will advise the grievant that the University will not wait for the conclusion of a

criminal investigation or criminal proceeding to begin its own investigation, and if needed, the University will take immediate steps to protect the student in the educational setting. The University will ask the grievant to inform the University if the grievant intends to file a criminal complaint or police report;

- i. When a grievant elects to pursue a criminal complaint, the University will request the Douglas County Prosecutor's Office to immediately advise the University's investigator assigned to the grievant's complaint of its decision on whether to prosecute the complaint. The University will maintain documentation of the date of the request to the Prosecutor's Office and continue the investigation to the extent possible during the criminal investigation and take interim steps to ensure the safety and well-being of the complainant and the University community while law enforcement's fact-gathering is in progress.
  - ii. In cases where the Prosecutor's Office declines prosecution, the University will provide written notice to the grievant the decision of the Prosecutor's Office and continue its investigation and disciplinary process as appropriate. The University will maintain documentation of the date that it received notice from the Prosecutor's Office regarding the decision to pursue prosecution.
- (d) The requirement that when a complaint investigation will take longer than the time specified for the completion set forth in University policy, the investigator will notify the complainant and respondent in writing and provide a timeframe for completing the investigation;
- (e) Establishment of accountability procedures to ensure timely completion of complaint investigations, including but not limited to regular second-level review of complaint processing and a system for reminding University staff responsible for investigating complaints when a complaint is nearing the deadline for timely completion;
- (f) "No contact" orders are issued in writing to all parties to an alleged sexual assault promptly after the University receives notice of a complaint;
- (g) The interim and permanent steps the University will take to stop the harassment, remedy the harassment and prevent reoccurrence include specific discussions with the grievant about academic, extracurricular activities, housing and on-campus dining arrangements of the parties to determine if adjustments in schedules or housing are necessary and explain that any adjustments made will be designed to minimize the burden on the grievant's educational program;



- (h) Both the grievant and the accused in sexual harassment cases have the opportunity to present witnesses and other evidence, and both receive equivalent notice of the process, access to peer support, information about procedures and written notice of the outcome;
  - (i) The University recognizes that sexual assault, sexual misconduct and sex based cyber-harassment are forms of sexual harassment, and will include a reference to cyber harassment in the University's policy regarding the responsible use of information technology;
  - (j) The medical and counseling resources available to complainants are also available to accused parties and witnesses (students, faculty or staff).
2. All relevant University policies and procedures will be amended or clarified to require that the University prepare:
- (a) A written investigative report regarding any complaint of sexual harassment and that the written reports shall contain, at a minimum, the following information:
    - (i) The name and sex of the alleged victim and, if different, the name and sex of the person reporting the allegation;
    - (ii) The statement of the allegation, a description of the incident(s), and the date(s) and time(s) (if known) of the alleged incident(s);
    - (iii) The date that the complaint or other report was made;
    - (iv) The date the accused was interviewed;
    - (v) The names and sex of all persons alleged to have committed the alleged harassment;
    - (vi) The names and sex of all known witnesses to the alleged incident(s);
    - (vii) The dates that any relevant documentary evidence (including cell phone and other records as appropriate) was obtained;
    - (viii) Any written statements of the grievant (or victim, if different from the grievant);
    - (ix) The date on which the University deferred its investigation and disciplinary process because the grievant filed a law enforcement complaint and, as applicable, the date on which the University resumed its investigation and disciplinary process;

- (x) The findings of the investigation and, if any, disciplinary recommendations;
- (b) A written report maintained by the University that includes but is not limited to:
  - (i) Disciplinary and other action taken by the University, if any, in response to the investigative findings;
  - (ii) The response of University personnel and, if applicable, University-level officials, including any interim and permanent steps taken with respect to the grievant and the accused; and
  - (iii) A narrative of all action taken to prevent the recurrence of any harassing incident(s), including any written documentation.

#### REPORTING REQUIREMENT:

By June 22, 2012, the University will submit to OCR for its review and approval its proposed revised policies and procedures as required by items 1 and 2 of this Agreement. Within thirty (30) days of receipt of notice of OCR's approval of the policies and procedures, the University will adopt, implement and publish the policies and procedures and report in writing to OCR that it has adopted, implemented and published the policies and procedures.

#### TRAINING OF UNIVERSITY STAFF

3. By December 31, 2012, the University will require all University faculty and staff, including part-time faculty and staff and adjunct faculty to participate in in-person training or electronic training regarding the University's Title IX policies, procedures and practices. The University commits to providing training to faculty and staff regarding Title IX on an annual basis. At a minimum, the training must address:
  - (a) the University's prohibition against discrimination based on sex including sexual assault and sexual misconduct and other forms of harassment based on sex, and a review of the University's revised sexual harassment policies and procedures, including an explanation of what constitutes sexual harassment, the University's commitment to conducting a prompt investigation as well as disciplinary sanctions (including if appropriate suspension or expulsion) related to findings of violations of the University's sexual harassment policies and procedures and/or the University's policy prohibiting retaliation and intimidation;

- (b) the University's commitment to a campus environment free from all harassment and what faculty and staff should do if they believe students have been subjected to sexual harassment;
- (c) the names and contact information of University employees that faculty and staff may contact for reporting discrimination based on sex including sexual harassment; and
- (d) the University's resources for information and education regarding discrimination based on sex, sexual harassment and sexual violence.

REPORTING REQUIREMENT:

By January 18, 2013, the University will provide OCR documentation showing the University provided the training required by item 3 of this Agreement. If the University conducted in-person training, the documentation must include:

- (a) the date(s), time(s) and location(s) of the training(s);
- (b) an outline or agenda that addresses all topics addressed in the training and a copy of all written and/or electronic materials disseminated at the training;
- (c) the name(s) and title(s) of the individual(s) who conducted the training;
- (d) a sign-in sheet with the name and title of each employee who attended the training, or if the training is provided via electronic means, confirmation of the name and title of each employee who attended the training and the date of completion; and
- (e) a list of the names and positions of all employees who are required to participate in the training and who have not yet completed it, along with the reason for each employee's non-participation and a description of the efforts being made by the University to ensure each specific employee's compliance with this requirement.

If the University provided electronic training, the documentation must include:

- (a) a list by full name and title of all employees who completed the training;
- (b) the name of the vendor or University employee who developed the electronic training; and



(c) a copy or printout of the electronic training curriculum.

OCR is available to provide technical assistance and training to the University upon the University's request.

REPORTING REQUIREMENT:

By January 17, 2014, the University will provide OCR documentation showing it has completed the training described in item 3 of this Agreement for the 2013-14 academic year. The documentation must include the same information required by the reporting provision for item 3, above, of this Agreement.

4. The University commits to continue its annual training of all faculty and staff as described in item 3, and will include in such training an overview of Title IX and any changes to the University's sexual harassment policies and procedures.

REPORTING REQUIREMENT:

For any subsequent annual Title IX trainings pursuant to item 3, the University need not provide evidence to OCR that it has provided the annual training pursuant to this Agreement unless OCR requests the University to provide that information.

5. By December 31, 2012, the University will provide all administrators and staff responsible for investigating allegations of violations of Title IX with specialized in-person or electronic training regarding the University's revised policies and procedures regarding sexual harassment and complaint processing, investigation and/or resolving complaints or other reports of sexual harassment. For in-person training, the training will be conducted by an individual(s) knowledgeable about the laws and issues pertaining to Title IX. At a minimum, the in-person and electronic training must address:
  - (a) The University's revised policies, procedures and practices described in this Agreement, including an explanation of what constitutes sexual harassment; and
  - (b) The University's commitment to conducting a prompt investigation as well as levying disciplinary sanctions (including if appropriate suspension or expulsion) related to findings of violations of the University's sexual harassment policies and procedures and/or the University's policy prohibiting retaliation and intimidation.

REPORTING REQUIREMENT:

By January 18, 2013, the University will provide OCR documentation showing the University provided the training required by item 5 of this Agreement. If the University conducted in-person training, the documentation must include:

- (a) the date, time and location of the training;
- (b) an outline or agenda that addresses all topics addressed in the training and a copy of all written and/or electronic materials disseminated at the training;
- (c) the name(s) and title(s) of the individual(s) who conducted the training; and
- (d) a sign-in sheet with the name and title of each employee who attended the training.

If the University provided electronic training, the documentation must include:

- (a) a list by full name and title of all employees who completed the training;
- (b) the name of the vendor or University employee who developed the electronic training; and
- (c) a copy or printout of the electronic training curriculum.

OCR is available to provide technical assistance and training to the University upon the University's request.

#### REPORTING REQUIREMENT:

By January 17, 2014, the University will provide OCR documentation showing it has completed the trainings described in item 5 of this Agreement for the 2013-14 academic year. The documentation must include the same information required by the reporting provision for item 5 of this Agreement for the 2012-13 academic year.

6. The University commits to continue its annual training of all individuals involved in processing, investigating and/or resolving complaints or other reports of sexual harassment, and will include in such training an overview of Title IX and any changes to the University's sexual harassment policies and procedures.

**REPORTING REQUIREMENT:**

For any subsequent annual Title IX trainings pursuant to item 5, the University need not provide evidence to OCR that it has provided the annual training pursuant to this Agreement unless OCR requests the University to provide that information.

**TIMELY COMPLETION OF INVESTIGATIONS**

7. In accord with the recommendations in the significant guidance document (the *Dear Colleague Letter*) issued by the Department on April 4, 2011, the University will conclude its Title IX investigations within sixty (60) calendar days of receipt of a complaint, except in extraordinary circumstances. If extraordinary circumstances prevent the conclusion of an investigation within that time frame, all parties will be promptly notified and will be given an estimated time for the conclusion of the investigation.

**REPORTING REQUIREMENT:**

By June 22, 2012, the University will provide to OCR a written report regarding its compliance with the provision set forth in item 7 for the 2011-12 academic year. The University will also provide access to the investigative reports concerning complaints of sexual harassment described in item 2 above, all correspondence provided to the grievant, accused and witnesses; investigative notes or reports; interview records; no contact orders; documentation of any interim measures taken; and if applicable, any documentation of resulting discipline.

By June 7, 2013, the University will provide to OCR a written report regarding its compliance with the provision set forth in item 7 for the 2012-13 academic year. The University will also provide access to the investigative reports concerning complaints of sexual harassment described in item 2 above, all correspondence provided to the grievant, accused and witnesses; investigative notes or reports; interview records; no contact orders; documentation of any interim measures taken; and if applicable, any documentation of resulting discipline.

**STUDENT-FOCUSED REMEDIES**

8. By September 14, 2012, the University will establish a committee made up of students, with representation from various student groups, including women's groups, student athletes, and others, and the University's Title IX coordinator(s) and other employees, as appropriate, to identify strategies to ensure that students understand their rights under Title IX and understand how to report violations of Title IX, and to ensure that the University takes each complaint seriously and provides a prompt and equitable response in accordance with the requirements of



Title IX. In addition, the committee will recommend additional strategies for the prevention of sexual harassment/sexual assault incidents, including outreach and educational activities.

#### REPORTING REQUIREMENT:

By January 18, 2013, the University will provide OCR documentation that it has implemented item 8 of this Agreement, including a list of names, titles, and contact information of employee group members, a description of each student member including sex, race age, major, roles held on campus, a copy of the committee's recommended actions, and a detailed description of any strategies the committee recommended to prevent incidents of sexual harassment/sexual assault, including any outreach or educational activities. The University expressly agrees that if OCR requests student names or contact information that it will provide the information within fifteen (15) calendar days of OCR's request.

9. By December 31, 2012, the University will include in its new student orientation, freshman orientation program, and/or other student programming a series of informational topic(s) to ensure that students are aware of the University's prohibition against sex discrimination (including sexual harassing and sexual assault); can recognize sex discrimination and sexual harassment when they occur; and understand how and with whom to report any incidents of sex discrimination (including sexual harassment and sexual assault). At least one required topic will specifically address the connection between alcohol abuse and sexual harassment and sexual assault, and at least one of the topics shall inform students that they may speak with a University counselor if they are concerned about issues of sexual harassment and/or sexual assault. In addition, the training will cover the University's revised or new grievance procedures for Title IX complaints, as well as a general overview of what Title IX is, the rights it confers on students, the resources available to students who believe they have been victims of sexual harassment/assault, and the existence of OCR and its authority to enforce Title IX. The University shall not designate or allow any students, individually or as part of student groups or organizations, to meet the obligations of this item.

#### REPORTING REQUIREMENT:

Within 30 calendar days of completion of item 9 of this Agreement, the University will provide OCR with documentation that it has implemented item 9, including copies of the handouts for the in-person training and a printout or copy of the electronic training curriculum. This information should also include the names and titles of the employees who presented the in-person training on the required topics and the name of the vendor or University employee who developed the electronic training.

10. By December 31, 2012, the University will on an annual basis provide residence life programming for students residing in campus housing a topic to ensure that students are aware of the University's prohibition against sex discrimination (including sexual harassment and sexual assault); can recognize such sex discrimination and sexual harassment; are aware of Title IX and the rights it confers on students; and understand how and with whom to report any incidents of sex discrimination (including sexual harassment and sexual assault), including where to find the University's grievance procedures for Title IX complaints on the University's website and the resources available to students who believe they have been victims of sexual harassment/assault. The University shall not designate or allow any students, individually or as part of student groups or organizations, to meet the obligations of this item.

#### REPORTING REQUIREMENT:

Within 30 calendar days of completing item 10 of this Agreement, the University will provide OCR document that it has implemented item 10, including copies of any materials or resources distributed or used during the programming presentations and the dates and locations of any and all such programming. The documentation should also include the number of students who attended each programming session. This information should also include the names and titles of the employees who presented the in-person training on the required topics and the name of the vendor or University employee who developed the electronic training.

11. By June 15, 2012, and again at the end of the 2012-13 and 2013-14 academic years, the University will conduct a climate check with students on campus to assess the effectiveness of steps taken pursuant to this Agreement, or otherwise by the University, to achieve its goal of a campus free of sex discrimination, including sexual harassment. The climate check may be completed by sending a survey to each University student that contains questions about the student's knowledge of sex discrimination (including sexual harassment and sexual assault) and any experiences with sex discrimination while attending the University, and the student's awareness of the University's Title IX policies and procedures. If the University opts to use a survey, the University first will submit the survey to OCR for review and approval prior to its distribution. Information gathered during these climate checks will be used to inform future proactive steps taken by the University. Part of the University's ongoing climate checks will include informing students about to whom they may report concerns about sex discrimination.

#### REPORTING REQUIREMENT:

By June 22, 2012, the University will provide OCR documentation showing it has completed item 11 of this Agreement for the 2011-12 academic year, including a description of how the climate check(s) were completed, a summary and analysis of the students' responses to surveys, summaries of other information obtained, and any



proposed actions, if appropriate, that the University plans to take in response to the information gathered during the climate checks. The University expressly agrees that if OCR requests copies of the individual student surveys that will provide the information within sixty (60) calendar days of OCR's request.

12. By June 15, 2012, the University will develop and implement a process for surveying female students who withdraw from, transfer, or drop out of the University to find out if actual or perceived sex discrimination, including but not limited to sexual harassment, led to the students' decision to leave the University.

**REPORTING REQUIREMENT:**

By June 22, 2012, the University will provide OCR a copy of the process it developed to satisfy item 12 of this Agreement.

**INDIVIDUAL REMEDIES**

13. By April 20, 2012, the University will provide the complainant a written letter of assurance that includes:
  - (a) the University's commitment to a campus environment free from all harassment;
  - (b) the names and contact information of University staff to contact for reporting discrimination based on sex including sexual harassment;
  - (c) the University's commitment to conducting a prompt investigation as well as levying disciplinary sanctions (including if appropriate suspension or expulsion) related to findings of violations of the University's sexual harassment policies and procedures and/or the University's policy prohibiting retaliation and intimidation;
  - (d) the University's resources for information and education regarding discrimination based on sex, sexual harassment and sexual violence;
  - (e) the University's commitment to assisting her with continuing her education at the University, including a description of any specific steps or accommodations the University will take in response to her complaint; and
  - (f) the University's commitment to reviewing and revising its policies and procedures.

**REPORTING REQUIREMENT:**

By June 22, 2012, the University will provide OCR documentation showing the University completed the requirements of item 13. The documentation must include:



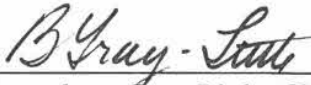
- (a) a copy of the letter of assurance sent to the complainant;
- (b) a letter signed by the University official responsible for providing any specific steps or accommodations described in the letter of assurance stating that such specific steps or accommodations were taken and the date(s) of completion; and
- (c) any documentation supporting or showing evidence of implementation of the specific steps or accommodations described in the letter of assurance.

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 the Title IX at 20 U.S.C. § 1681 and its implementing regulation, 34 C.F.R. Part 106, which was 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 the regulation implementing Title IX at 20 U.S.C. § 1681 and its implementing regulation at 34 C.F.R. Part 106, which were at issue in this case.

The University's voluntary resolution of this matter does not constitute, nor should it be construed as, an admission of any action that is a violation of a law or regulation enforced by OCR. Because the University resolved this complaint prior to the conclusion of OCR's investigation, OCR has not made any findings of fact or law and has not issued a final determination with respect to the complaint.

The person signing for the University represents that she is authorized to bind the University to this Agreement.

  
Bernadette Gray-Little, Chancellor  
University of Kansas  
Lawrence, Kansas

3-29-2012  
Date