

**Voluntary Resolution Agreement**  
**KENTUCKY WESLEYAN COLLEGE**  
**DOCKET #03-12-2062**

In order to resolve the allegation in the above referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) under Title IX of the Education Amendment Act of 1972 (Title IX) and its implementing regulations, the Kentucky Wesleyan College (the College) voluntarily enters into this resolution agreement and commits to implement the provisions set forth in this agreement in order to resolve the allegations in this complaint. This Agreement does not constitute an admission of liability on the part of the College and does not constitute a determination by OCR of any violation of any regulations enforced by OCR.

The College has implemented changes including training of the Title IX Coordinator and two assistants and has changed the policies and web site to clarify the rights of students.

The College agrees to comply with the terms of this Agreement until OCR has released it from monitoring. OCR will not close the monitoring until it determines that the College has fulfilled the terms of this Agreement and is in compliance with the provisions of Title IX applicable to these complaints.

The College shall provide data and other information in a timely manner. During the monitoring of this Agreement, OCR may visit the College, interview staff, and students and request such additional reports or data as are necessary for OCR to determine whether the College has complied with the terms of this Agreement and the provisions of Title IX applicable to this complaint.

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

**Action Steps**

I. Title IX Grievance Procedures

- A. By October 1, 2013, the College will submit to OCR for its review and approval revised Title IX grievance procedures to address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence) as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). These procedures will provide for the prompt and equitable resolution of complaints alleging sex discrimination including:

- the name or title, office address, and telephone number of the individual with whom to file a complaint;
- notice that the procedures apply to complaints alleging sex discrimination (including sexual harassment, sexual assault, and sexual violence) carried out by employees, students, or third parties;
- notice to students and employees of the procedure, including an explanation of how and where to file a complaint pursuant to the procedure;
- an explanation of the College's informal complaint procedure, and that such procedure is optional:
- the timeframes for the College to attempt to informally resolve a complaint;
- definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault, and sexual violence);
- provide for the adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence;
- timeframes for the major stages of the investigation, with a provision indicating that the College will comply with law enforcement requests for cooperation and such cooperation may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence and that the College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the College's investigation may be longer in certain instances;
- appropriate interim steps, including during the law enforcement agency's investigation period, to provide for the safety of the victim(s) and the campus community and the avoidance of retaliation;
- ensuring that the victims are aware of their Title IX rights and available resources, such as counseling, the local rape crisis center and their right to file a complaint with a local law enforcement agency;
- an assurance that the College will keep the complaint and investigation confidential to the extent possible;

- utilization of a preponderance of the evidence standard to determine whether harassment occurred;
  - written notification to the parties of the outcome of the complaint;
  - notice of the opportunity for the parties to appeal the findings;
  - an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker;
  - an assurance that the College will take steps to prevent recurrence of any discrimination, with examples of the range of possible disciplinary sanctions and the types of remedies available to address the discriminatory effects on victims and others; and
  - a statement that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.
- B. Within 45 calendar days of written notification from OCR that the revised grievance procedures developed in accordance with Action Step I.A above are consistent with Title IX requirements, the College will adopt and implement the procedures and will provide all students and employees with electronic or written notice regarding the new grievance procedures for resolving Title IX complaints together with information on how to obtain a copy of the grievance procedures. The College, at a minimum, will make this notification through the College's website, electronic mail messages to employees and students, as well as by any other additional means of notification the College deems effective to ensure that the information is widely disseminated.

### **Reporting Requirements**

1. By October 1, 2013, the College will submit its Title IX grievance procedures referenced in Action Step I.A above to OCR for review and approval.
2. Within 60 calendar days after OCR's approval of the Title IX procedures referenced in Action Step I.A above, the College will provide OCR with documentation that it has implemented Action Step I.B above, including copies of the written notices issued to students and employees regarding the new Title IX procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised Title IX procedures are located.

II. Title IX Coordinator

- A. By October 1, 2013, the College will develop a job description and corresponding training requirements for its Title IX Coordinator and, as appropriate, any deputy coordinators. The job description and corresponding training will cover the investigation of Title IX complaints filed by students, staff, and faculty and the responsibility of the Title IX Coordinator to regularly develop and participate in activities designed to raise awareness within the College regarding sex discrimination (including sexual harassment, sexual assault, and sexual violence), the existence of OCR and its responsibility to enforce Title IX, and the College's policies and procedures regarding such matters. If the College opts to designate additional staff to assist the Title IX Coordinator, it will make clear the scope of each employee's duties and will ensure that the Title IX Coordinator has ultimate oversight responsibility over other staff, which will be clearly stated in that coordinator's job description. The College will require the Title IX Coordinator and his/her designee to administer compliance with this agreement.

**Reporting Requirement**

3. By October 1, 2013, the College will provide OCR with the name/title of the person designated as the Title IX Coordinator, including the address and contact information, job description and training program developed pursuant to Action Step II.A above.

III. Training for Title IX Coordinator and College Personnel

- A. By October 1, 2013, and annually thereafter, the College will ensure that Title IX training has been completed for its Title IX Coordinator, College administrators, and any College personnel who will be directly involved in processing, investigating and/or resolving complaints of sex discrimination (including sexual harassment, sexual assault, or sexual violence) or who will otherwise coordinate the College's compliance with Title IX. The training will include: the College's grievance procedures for Title IX complaints; applicable confidentiality requirements; instruction on preventing, recognizing, and appropriately addressing/reporting allegations and complaints pursuant to Title IX, including potential off-campus incidents; sex discrimination, including sexual harassment/assault and violence; the College's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature, and to ensure that victims of sexual offenses that are criminal in nature are aware of the College's Title IX obligations and its Title IX grievance procedures; and instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation (which differ from a criminal investigation), as well as how the College's responsibilities under Title IX and the Clery Act, 20 U.S.C. § 1092(f), differ. Those who may act as fact-finder or decision-maker in sexual violence cases should have adequate training or knowledge regarding sexual violence. The training will provide information on the link between alcohol abuse and sexual harassment/sexual

violence/sexual assault and best practices to address that link. The College may, but is not required to, request OCR Philadelphia staff to assist in providing the training. The College will provide this training on an annual basis to ensure that its Title IX Coordinator and other College personnel who handle Title IX complaints receive adequate training every year, which may be conducted internally by the College. Training of personnel who may receive complaints but are to report those complaints to others will be limited to advising those personnel to whom to report complaints.

#### **Reporting Requirement**

4. Within 15 days after the College's first training required by Action Step III.A, and the College will provide OCR with a list of the names and titles of the individuals who attended the training.

#### **IV. Student-Focused Remedies**

- A. Within 45 calendar days of the implementation of the College's revised grievance procedures, the College will develop and submit to OCR for its review material available to students on sexual harassment and sexual violence, to be distributed to students during orientation and upon receipt of complaints of sexual harassment and sexual violence. The material will define sex discrimination, sexual harassment, sexual assault, and sexual violence. The material will contain information on what constitutes a sexual assault, what to do if you have been the victim of sexual assault, and contact information for on and off-campus resources for victims of sexual assault. In addition, the College will include information on how to file a complaint of sexual assault with the College, how to file a separate complaint of sexual harassment with the College, the name and contact information for the College's Title IX Coordinator(s) and a description of the Title IX Coordinator's role, information on how to obtain counseling and academic assistance in the event of a sexual assault, and information on what interim measures can be taken if the alleged perpetrator lives on campus and/or attends classes with the victim.
- B. By October 1, 2013, the College will create and charge a campus focus group, consisting of representative leaders from the student community (e.g., women's groups, athletes, residential assistants, fraternity and sorority leaders, etc.) and College officials, with providing input regarding strategies for ensuring that students understand their rights under Title IX, how to report possible violations of Title IX, and are aware of the College's obligation to promptly and equitably respond to Title IX complaints. The campus focus group will provide input to the Dean of the Office of Student Affairs regarding the strategies identified. The Title IX Coordinator or Deputy Coordinator will receive confirmation about the program content and schedules for this requirement. Taking into consideration the campus focus group's input, the College will offer a series of informational session(s) that the College will provide to students to ensure that they: are aware of the College's prohibition against sex discrimination and sexual harassment,

including sexual assault and sexual violence; can recognize such sex discrimination and sexual harassment when they occur; and understand how and with whom to report any incidents of sex discrimination, including sexual harassment, sexual assault, and sexual violence. In addition, the sessions will discuss the College's updated 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, sexual assault, and sexual violence, and the existence of OCR and its authority to enforce Title IX. These sessions will also be provided as part of the annual student orientation for new and returning students and annual residence life orientation for students residing in campus housing. At least one required topic will specifically address the connection between alcohol abuse and sexual harassment and sexual assault/violence, and at least one of the topics shall inform students that they can speak with a College counselor if they are concerned about sexual harassment and sexual assault/violence.

- C. By October 1, 2013, and annually at the end of the school year thereafter, the College will conduct a climate check or series of climate checks with students on campus to assess the effectiveness of steps taken pursuant to this agreement or otherwise by the College, to ensure a campus free of sexual harassment, in particular sexual assaults and sexual violence. This climate check may be accomplished through a written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as a counselor, should they wish to discuss this issue in person. The proposed method must be provided to OCR for review and approval prior to its use. Information gathered during these climate checks will be used to inform future proactive steps taken by the College.
- D. By October 1, 2013, the College will develop and submit to OCR for its review procedures that designate an individual from the College's independent counseling center to be "on call" to assist victims of sexual assault and sexual violence. The procedures will require the Title IX Coordinator or his/her designee to contact this individual in the event of a sexual assault or incident of sexual violence. The Title IX Coordinator or Deputy Coordinator will post a notice advising who to contact in the event of a complaint of a sexual assault or incident of sexual violence. If the victim agrees to accept assistance, the procedures will require this individual to explain to the victim the various assistance options the College provides, such as counseling services and academic support, and to notify the victim of the College's Title IX obligations, if any, whether or not the student opts to file a sexual harassment complaint pursuant to the College's Title IX grievance process. The College will take reasonable steps to separate the alleged perpetrator from the alleged victim and will take sufficient interim measures to provide the students with the opportunity to complete any classes or independent studies in which they are enrolled. These steps will be taken to minimize the burden on the alleged victim.

### **Reporting Requirements**

5. Within 60 calendar days of OCR's approval of the material referenced in Action Step IV.A above, the College will provide OCR with documentation that it has implemented Action Step IV.A above, including a link to where the material is posted on the College's website, and the College offices that will be responsible for distributing the material upon receipt of a complaint of sexual harassment and/or sexual violence.
6. By October 1, 2013 the College will provide OCR with documentation that it has implemented Action Step IV.B above, including a list of names and titles of the members of the campus focus group, the dates of and copies of any minutes of campus focus group meetings, a copy of the campus focus group's recommended actions, and a detailed description of each informational session held by the College, the date(s) the sessions were held, the names, titles and qualifications of the individuals who led the informational sessions, and copies of any written materials distributed during the sessions.
7. By October 1, 2013, the College will provide OCR with documentation demonstrating implementation of Action Step IV.C above, including summaries of the information obtained and proposed actions based on that information.
8. By October 1, 2013, the College will provide OCR with documentation that it has implemented Action Step IV.D above, including the name(s) of individuals from the College's counseling center designated to be "on call" to assist victims of sexual assault/sexual violence, and a copy of the procedures developed in accordance with Action Step IV.D, including a link to the website and copies of all written publications (or inserts pending republication) where these procedures appear.

### **V. Individual Remedy**

- A. On March 21, 2013, College officials met with the Complainant and discussed counseling services, partial reimbursement of meal plan expenses, and completion of her academic classes for XXXXXX. Regarding her XXXXXX course, the Complainant advised that she had previously been offered another choice in the group of XXXXXX classes for academic credits, which she had accepted. The College also forwarded a check to the Complainant in the amount of XXXXXX toward her unused meal plan for the 2011 fall semester. XXXXXX.
- B. By October 1, 2013, the College will make a written offer to the Complainant, by certified mail, to provide an opportunity for her to meet with or talk with its independent counseling services for assessment and/or treatment of any effects of the incident on XXXXXX. The College's letter will inform the Complainant that the assessment and any subsequent treatment provided by the College's independent counseling services will be at the College's expense and that she has ten (10) calendar

days from the date of the letter to accept the offer by providing written notice of her acceptance to the College. The level of counseling services offered to the Complainant will be based on the assessment by the College's independent counseling services, and all such services can be provided by this entity. These services may be provided remotely (e.g., by telephone or videoconference). In the event the Complainant comes to Owensboro, Kentucky for any assessments or subsequent treatment provided by the College's independent counseling services, the travel expenses, including without limitation, mileage, airfare, lodging, meals, etc. shall be borne by the Complainant and not by the College.

### **Reporting Requirements**

9. By October 1, 2013, the College will provide to OCR a copy of the letter it sent to the Complainant regarding its offer for counseling services in response to Action Step V.B., along with a copy of the written response from the Complainant, if any.

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Cindra Stiff, Vice President of Finance

August 13, 2013

Date: \_\_\_\_\_