

Resolution Agreement
Faulkner State Community College
OCR Docket Number 04-14-2054

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Faulkner State Community College (College) pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin. Prior to the completion of OCR's investigation, the College requested to resolve the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Title VI and its implementing regulation, and to resolve the issues of this investigation, the College voluntarily agrees to take the following actions.

The College agrees to take all steps reasonably designed to ensure that students enrolled in the College are not subject to a hostile environment, on the basis of race, color, and national origin, and to respond to allegations of harassment on the basis of race, color, and national origin. To this end, the College will promptly investigate all incidents and complaints of race, color, and national origin based on harassment of students the College knows of or reasonably should know of, and the College will take appropriate action to respond to complaints, which may include disciplinary action against students and/or staff found to have engaged in the harassment. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones or the internet; or other conduct that may be physically threatening, harmful or humiliating. The College will take prompt and effective responsive action reasonably designed to end the hostile environment, if one has been created, prevent its recurrence, and where appropriate, take steps to remedy the effects of the hostile environment on the affected student(s). Accordingly, the College agrees to the following:

Student Focused Remedies

1. By May 30, 2014, the College will send a letter to the Student offering counseling to remedy the effects of the racial incident that occurred May 6, 2013. If the Student consents to such counseling, the College will immediately begin providing the agreed-upon service.

REPORTING REQUIREMENT: By June 9, 2014, the College will provide OCR with a copy of the letter sent to the Student. The College will also provide OCR with copies of the Student's response, including any counseling or other services agreed upon, and documentation demonstrating the initiation of any agreed-upon services.

2. By June 30, 2014, the College will conduct an investigation of the XXXXXXXX XXXX members and XXXXXXXX to determine whether the incident involving the Student was an isolated incident or a pattern of behavior that has created a hostile environment for XXXXX students. The investigation will not be limited to formally reported incidents but will also determine whether the XXXXX, other XXXXXXXX or other students engaged in incidents based on race that were previously unreported by students on the

XXXX. The investigation will include interviews with current and former students and written findings.

REPORTING REQUIREMENT: By July 30, 2014, the College will provide OCR with a copy of its investigation, including copies of witness statements. If applicable, the College will advise OCR of any additional disciplinary action(s) taken against the XXXXX, other XXXXXXXX or other students, as well as other actions it has taken to remedy the effects of the racial harassment in response to the findings, if any.

3. By June 30, 2014, the College will assess whether any hostile environment related to the incident has been fully eliminated and, if needed, develop a plan to protect any other students who were subjected to the remarks made by other students, XXXXXXXX or the XXXXX from future harassment or retaliation because of the report concerning the XXXXXXXX XXXX incident.

REPORTING REQUIREMENT: By July 30, 2014 the College will provide OCR with a written summary of its findings related to Item #3, and a copy of any plan that was created to protect students from further harassment or retaliation.

Statement Regarding Harassment on the Basis of Race, Color, and National Origin,

4. By June 30, 2014 the President will issue a statement to the College's students and staff that will be printed in the College's newsletter, website, Student Handbook and posted in prominent locations at the College, stating that the College does not tolerate harassment on the basis of race, color, and national origin. The statement will encourage any student who believes that he or she has been subjected to harassment on the basis of race, color, national origin, to report the harassment to the College, and note the College's commitment to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. The statement will include the appropriate contact information for the individual designated to receive complaints of harassment on the basis of race, color, and national origin. The statement will warn that students or employees found to have engaged in acts of harassment on the basis of race, color, and national origin, will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion for students or suspension or termination for employees. The statement will encourage students and College staff to work together to prevent harassment on the basis of race, color, and national origin. The College will distribute this statement in languages other than English, as necessary.

REPORTING REQUIREMENT: By July 30, 2014, the College will provide documentation to OCR demonstrating that statement described in Item #4 was published and disseminated.

Climate Survey

5. By June 30, 2014, and annually thereafter, the College will initiate an annual climate survey of student XXXXXXXX in the College to assess the effectiveness of steps taken

pursuant to this Resolution Agreement or otherwise by the College, to achieve its goal of a College free of racial harassment.

REPORTING REQUIREMENT: By July 30, 2014, the College will provide OCR with documentation demonstrating implementation of the survey, including a description of how the climate surveys were completed, copies of any student responses to surveys, summaries of other information obtained, and proposed actions, if appropriate, that the College plans to take in response to the information gathered during the climate assessments.

Grievance Procedures

6. By June 30, 2014, the College will develop and submit to OCR for its review and approval draft grievance procedures to address discrimination and harassment complaints under Section 504, Title II, Title IX, the Age Act and Title VI,¹ including complaints of harassment alleged to have been committed by faculty, staff members, students, or third parties (such as members of the general public or vendors). The College will ensure that these procedures provide for the prompt and equitable resolution of all complaints and will include, at a minimum, the following:
 - a. notice to students, parents and employees of the procedures, including where complaints may be filed;
 - b. application of the procedures to complaints of discrimination (including harassment) carried out by employees, students or third parties;
 - c. provision for prompt, adequate, and impartial investigation of all complaints, including the opportunity for the complainant and subject of the complaint to present witnesses and other evidence;
 - d. designated and reasonably prompt timeframes for the major stages of the investigation;
 - e. written notification to the complainant and subject of the complaint of the outcome of the investigation;
 - f. an assurance that remedial action will be taken to address and resolve any found incident of discrimination and to prevent the recurrence of any discrimination will be taken; such remedial action may include, as appropriate, disciplinary sanctions up to and including termination of employment if the harasser is an employee, suspension or dismissal of students from the College, strategies to protect the individual subject to the harassment and any witnesses from retaliation, counseling for the victim of the harassment, other steps to address any impact on the victim of the harassment, any witnesses and the broader student body, and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

¹ For additional guidance, please refer to January 19, 2001 OCR Dear Colleague letter, "Sexual Harassment Guide", April 4, 2011 OCR Dear Colleague letter, "Sexual Violence", and OCR April 29, 2014, "Question and Answer on Title IX and Sexual Violence".

REPORTING REQUIREMENT: By June 30, 2014, the College will submit to OCR, for its review and approval, the draft grievance procedures. By July 30, 2014, or within 60 days of OCR's approval of the procedures developed in accordance with this item of the Agreement, whichever is later, the College will adopt and implement the procedures and will provide all faculty, staff and students with written notice regarding the procedures together with information on how to obtain a copy of the procedures. The College will make this notification through the College's website; electronic mail messages to faculty, staff and students; and employee and student handbooks.

Training

7. By June 30, 2014, the College will initiate annual training for XXXXXXXX XXXXXXXX, administrators, faculty and staff (including XXXXXXXX) regarding the Title VI legal standards prohibiting harassment on the basis of race, color, and national origin. The training will include examples of the types of conduct (e.g., physical, verbal, graphic, or written) which may create a hostile environment based on race, color, and national origin. The training will further discuss the new revised grievance procedures described in Item #6, and cover the College's obligation to eliminate a hostile environment of which it has notice, including constructive notice based upon involvement of an employee or student in creating the hostile environment, and the obligation of faculty and staff to report any incidents of racial harassment to College administrators.

REPORTING REQUIREMENTS: By July 30, 2014, the College will provide OCR with a report confirming the completion of the training described in Item #7. The documentation shall include: (1) the background and qualifications of the presenters/trainers; (2) a copy of the transcript/materials used for the training, a copy of the web link; and (3) a report listing the students, administrators, faculty and staff at the College who completed the training.

The College 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 College understands that during the monitoring of this Agreement, if necessary, 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 fulfilled the terms of this agreement and is in compliance with the Title VI implementing regulation at 34 C.F.R. § 100.3(a) and (b)(1)(i).

The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the Title VI implementing regulation at 34 C.F.R. § 100.3(a) and (b)(1)(i) which was at issue in this case.

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 proceedings 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.

President or Designee

Date