

**Resolution Agreement**  
**Everest College**  
**OCR Case Number 08-15-2072**

In order to resolve the allegations in Case Number 08-15-2072, filed against Everest College (“College”) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to 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 College agrees to implement the following Resolution Agreement.

During the course of OCR’s investigation, before OCR had made any findings, the College indicated its willingness to take steps necessary to ensure compliance with Title IX. Pursuant to Section 302 of OCR’s *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The College’s decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. The College will designate a Title IX coordinator, to coordinate its efforts to comply with and carry out its responsibilities under Title IX. The coordinator’s responsibilities include investigating complaints communicated to the recipient alleging noncompliance with Title IX as required by 34 C.F.R. § 106.8(a).

Reporting Requirement 1:

By **November 1, 2015**, the College will provide to OCR written verification of its Title IX coordinator and notification to students and employees of the name, address, and telephone number of the designated coordinator. The College will provide notice on the College’s website and other forms of communication such as future student and employee handbooks, pursuant to 34 C.F.R. § 106.8(a).

2. The College will review and revise its Title IX policies and grievance procedures to address complaints of alleged sex discrimination, including sexual and gender-based harassment, as required by Title IX’s implementing regulation at 34 C.F.R. § 106.8(b). The policies and procedures will include, at a minimum, the following:
  - a. a statement of the College’s jurisdiction over Title IX complaints;
  - b. notice to students and employees of the grievance procedures, including where complaints may be filed;
  - c. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination or sexual harassment (including sexual violence) carried out by employees, other students, or third parties;
  - d. provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;

- e. a statement that these procedures will be administered in a manner that eliminates any conflicts of interest (real or perceived) by individuals handling the procedures;
- f. designated and reasonably prompt time frames for the major stages of the complaint process;
- g. provisions stating that both parties will be informed of the status of the investigation at regular intervals;
- h. assurance that alleged victims of sex discrimination will not be required to work out the problem directly with alleged perpetrators without appropriate involvement by the College;
- i. assurance that any informal process can be ended by an alleged victim at any time in order to begin a formal stage of the complaint process;
- j. provisions stating that evidence of past relationships will not be allowed;
- k. written notice to the complainant and alleged perpetrator of the outcome of the complaint;
- l. provisions that the College must maintain all documentation of the complaint investigation and any corrective actions taken in a system that allows the Title IX Coordinator or others to track incidents by school site and perpetrator;
- m. assurance that the College will take steps to prevent recurrence of any sexual harassment and remedy discriminatory effects on the complainant and others, if appropriate;
- n. adequate definitions of sexual harassment (which includes sexual violence) and sexual bullying and an explanation as to when such conduct creates a hostile environment;
- o. reporting policies and protocols provide that, in the event of a sexual assault (including alleged sexual contact between staff and students), the College's Title IX Coordinator will immediately be notified of the incident, so that the College may (i) ensure that it provides an appropriate response to the incident, consistent with the policies and procedures, and (ii) inform law enforcement and accrediting bodies as appropriate.
- p. reporting policies and protocols, including provisions for confidential reporting, applicable to every College employee, and including identification of the employee or employees responsible for evaluating requests for confidentiality;
- q. notice that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation;
- r. notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
- s. notice that College employees may notify law enforcement of jurisdiction of any incident that is suspected to warrant a criminal investigation, and that College employees may notify accrediting agencies of any incident that is suspected to implicate a staff member's professional licensure;
- t. provisions for the timely notification of the College's Title IX Coordinator of any incident of sexual harassment and sexual assault against students within the College's jurisdiction that is reported by College's employees to municipal law enforcement or other agency of jurisdiction;

- u. notice that the initiation of a criminal complaint or other outside investigation does not mitigate the College's obligation to complete a prompt and equitable resolution of every complaint alleging sex discrimination;
- v. notice of available interim measures that may be taken to protect students in the educational setting, pending the outcome of any College's investigation;
- w. a statement that the preponderance of the evidence (i.e., more likely than not that sexual violence occurred) will be the standard used in investigating a complaint;
- x. notice of potential remedies for students and potential sanctions against perpetrators; and
- y. sources of counseling, advocacy, and support; and provisions stating that training will be provided for all individuals implementing the grievance procedures.

Reporting Requirement 2.1:

By **November 1, 2015**, the College will provide OCR for approval, which shall not be unreasonably withheld, conditioned or delayed, its proposed revised Title IX policies and grievance procedures demonstrating completion of Agreement Item 2.

Reporting Requirement 2.2:

Within **60 calendar days** of OCR's approval of the College's revised Title IX policies and grievance procedures, which shall not be unreasonably withheld, conditioned or delayed, the College will adopt and implement the revised procedures and will provide students and employees with written notice regarding the revised procedures for resolving Title IX complaints, together with information on how to obtain or locate a copy of the revised policies and grievance procedures. The College will make this notification through the College's website and future student and employee handbooks.

Reporting Requirement 2.3:

Within **20 calendar days** of the College's adoption of its revised Title IX policies and grievance procedures, it will provide written verification to OCR that it has adopted and implemented its revised Title IX procedures and has provided notice to students and employees.

3. The College shall complete an investigation related to the allegations of this case at its Thornton, Colorado location. If there is a finding that discrimination occurred, the College will take actions in conformance with its Title IX policies and procedures to prevent possible recurrence of sexual harassment and will correct any discriminatory effect on the Student. The College will promptly provide the written findings and corrective action to the students involved in the allegations identified in this case.<sup>i</sup>

Reporting Requirement 3:

By **November 1 2015**, the College will provide OCR with its written investigative findings related to the allegations of this complaint at the College's Thornton location, corrective actions taken, and will confirm in writing that it has taken action to notify the students involved in the case of its findings and corrective actions taken.

4. The College will provide online sexual harassment training for staff, faculty and administrators at the College's Thornton location. The College will use reasonable efforts to ensure that all staff, faculty and administrators at the College's Thornton location are provided with the sexual harassment training. The training will cover the revised Title IX policies and grievance procedures and provide instruction on preventing, recognizing and appropriately addressing allegations and complaints pursuant to Title IX, including sexual and gender-based harassment, sexual assault and sexual violence. The training will also address the College's responsibilities under Title IX to investigate allegations of harassment, and whether such allegations are potential discipline or criminal concerns. Additionally, the training will include 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. The College shall require all College personnel to complete the training on an annual basis. Someone knowledgeable about the requirements of Title IX and the College's approved Title IX grievance procedures will develop the online training.

Reporting Requirement 4.1:

By **January 15, 2016**, the College will provide OCR for approval, which shall not be unreasonably withheld, conditioned or delayed, its draft training materials and will identify who developed the training and provide his/her qualifications.

Reporting Requirement 4.2:

Within **60 calendar days** of receiving OCR approval of the proposed training materials, the employee and administrator training specified in Agreement Item 4 will be conducted at the College's Thornton location.

Reporting Requirement 4.3:

Within **20 calendar days** of providing the training at the College's Thornton location described in Agreement Item 4, the College will provide OCR with documentation that it has conducted the required training and will provide the following information: the date(s) the training was conducted; documentation of all notifications sent to College employees regarding the training; a list of staff, faculty and administrators, by name and title, showing whether the employee viewed the online training, and copies of any written materials (i.e., slides, handouts) used or distributed during the training.

5. The College will offer online sexual harassment training for students at the College's Thornton location. The College will use reasonable efforts to ensure that all students at the College's Thornton location are provided with the sexual harassment training. The College

will be deemed to have used reasonable efforts if the College posts written notice of the online training in the student lounge at the College's Thornton location and sends email notice(s) with information regarding the online training to all students at the College's Thornton location. The training will provide, at minimum, instruction on preventing, recognizing and reporting allegations and complaints pursuant to Title IX, including sexual and gender-based harassment, sexual assault and sexual violence, and will address the College's responsibilities under Title IX to investigate and redress allegations of harassment.

Reporting Requirement 5.1:

By **January 15, 2016**, the College will submit to OCR for approval, which shall not be unreasonably withheld, conditioned or delayed, its student sexual harassment training materials as identified in Agreement Item 5.

Reporting Requirement 5.2:

Within **60 calendar days** of receiving OCR approval of the proposed training materials, the student training specified in Agreement Item 5 will be provided at the College's Thornton location.

Reporting Requirement 5.3:

Within **20 calendar days** of providing the training at the College's Thornton location described in Agreement Item 5, the College will provide OCR with documentation that it has conducted the required training and will provide the following information: the date(s) the online training was conducted; documentation of all notifications sent to students regarding the training; a list of students, by name, showing whether the student viewed the online training, and copies of any written materials (i.e., slides, handouts) used or distributed during 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 the Agreement, if necessary, OCR may visit the College, interview College employees 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 regulations implementing Title IX at 34 C.F.R. §§ 106.8(a) and (b), which were at issue in this case.

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 regulation implementing Title IX at 34 C.F.R. §§ 106.8(a) and (b).

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.

For Everest College:

/s/

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Name	Date
Title	

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<sup>i</sup> Due to the intersection of Title IX and Family Educational Rights and Privacy Act (FERPA) requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant. FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student’s “education record.” However, as stated in the *2001 Guidance*, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall. We note that disclosure of other information in the student’s “education record,” including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.