

**University of Dayton
Resolution Agreement
OCR Docket #15-13-2199**

The University of Dayton (the University) voluntarily submits this Resolution Agreement (the Agreement) to the U.S. Department of Education's Office for Civil Rights (OCR), to ensure its 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. This Agreement is being voluntarily submitted by the University pursuant to Section 302 of the OCR's Case Processing Manual and prior to the completion of OCR's investigation and any issuance of findings and does not constitute an admission that the University is not in compliance.

Prior to being notified of this complaint, in 2010 the University initiated a Sexual Misconduct Education Prevention and Response Task Force (Task Force) to review and recommend improvements to the University's sexual misconduct prevention measures, education, policies and procedures, response protocols, and support services. The Task Force conducted a review of the University's sex discrimination processes, including the complaint process for sexual misconduct and assault. As a result of the Task Force's recommendations, actions already taken by the University include the following:

- In the 2011-2012 academic year, the appointment of a Coordinator of Sexual Violence Prevention Education to facilitate prevention education, who has provided prevention education for students and faculty.
- In January 2012, the appointment of a Title IX Coordinator and four Deputy Title IX Coordinators, each with a specific focus (i.e. students, faculty, staff, and athletics), and placement of a web link to the Title IX Coordinators' names and contact information on the footer banner of every University internet and intranet webpage.
- Training on Title IX requirements and the University's Title IX grievance procedure and policies for the Title IX Coordinator and deputies, the additional faculty and staff designated to investigate Title IX complaints, and the University's Hearing Board members.
- Training on sexual harassment and, specifically, Title IX's requirements for all front-desk assistants, residence assistants, and graduate assistants.
- Implementation of a mandatory reporting policy, which requires all employees, except for those with protected confidentiality (e.g., doctors, therapists, and clergy), to report any incident of discrimination and harassment of which they become aware, including sexual harassment and assault, to the Title IX Coordinator or appropriate Deputy Title IX Coordinator.
- Creation of an online discrimination and harassment incident report form that can be used to report incidents.
- In January 2014, implementation of the "Nondiscrimination and Anti-Harassment Policy" and the accompanying "Equity Complaint Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination."

In furtherance of these efforts, the University agrees to take the following steps:

Title IX Grievance Procedures

1. The University currently has in place the following Title IX policy, grievance procedures and related materials: the Nondiscrimination and Anti-Harassment Policy; the Equity Complaint Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination; the Sexual Harassment Policy and Procedure, which sets forth the University Hearing Board Accountability Hearings for disciplinary hearings involving complaints of sexual harassment (contained in the Student Handbook); the Student Conduct Procedures, which set forth the University's appeal process applicable to sexual harassment complaints that reach the accountability hearing stage (contained in the Student Handbook); the Sexual Harassment Misconduct Resource Guide; and the online Nondiscrimination Resource Center. The University's "Nondiscrimination and Anti-Harassment Policy" and its corresponding grievance procedure entitled "Equity Complaint Process for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination" which were made effective by the University in January 2014, as currently written, include provisions for an adequate and reliable investigation of all complaints, interim measures to be taken for both parties to a sexual harassment complaint, use of a preponderance of the evidence standard, and reasonable timeframes for all the major stages of the investigation. Accordingly, the University, in revising its Title IX materials as outlined below, will retain these elements in the policy and procedure.

By July 7, 2014, the University will revise the aforementioned policy procedure and related materials to ensure that they fully comply with the Title IX implementing regulation and provide for the prompt and equitable resolution of complaints filed by faculty, staff, and students and will revise, as necessary, any related publications to ensure that they are consistent. The University will submit its revised, Title IX grievance procedure(s), and any related materials, to OCR for review and approval prior to making them effective. At a minimum, the revised documents will include:

- a. clarification that the University's Title IX Coordinator is the same person as the Equity Compliance Officer, and consistent use of terms throughout the documents to identify this person;
- b. clarification as to how the Title IX Coordinator, when sexual harassment is found to have occurred, will ensure and document the implementation of steps identified to prevent recurrence of the harassment and remedy the discriminatory effects on the complainant and others, as appropriate;
- c. if the University continues to include a pre-complaint resolution process in the procedures, notice that the pre-complaint process is voluntary, and that the complainant will be informed of his/her right to end the pre-complaint process at any time and access the formal grievance process;
- d. if the University continues to include an informal resolution procedure for resolving complaints, notice that the informal resolution process is voluntary, that

the complainant will be informed of his/her right to end the informal resolution process at any time and access the formal grievance process, and that informal resolution will not be appropriate in some circumstances (e.g., sexual assault);

- e. clarification as to the circumstances in which a party has the right to legal counsel in the University's complaint process, and that both parties have an equal right to a support person or an attorney during the complaint process; and
 - f. clarification on how the University will handle situations where the complainant would like to participate in the hearing process but is not able to be in the same room with the respondent or when a party needs a modification to participate.
2. Within 60 calendar days of written notification from OCR approving the revised Title IX grievance procedure and related documents referenced in Action Item 1 above, the University will adopt and implement the policies and procedures and will provide all students and employees with written notice regarding the revised grievance procedure together with information on how to obtain a copy. The University, at a minimum, will make this notification through the University's website, electronic mail messages to employees and students, and any regularly issued newsletters (in print or online), as well as by any other additional means of notification the University deems effective to ensure that the information is widely disseminated. The University will further certify that it has reviewed all of its other existing policies and procedures and documents that cover sex discrimination and harassment and revised them, as necessary, to ensure they are consistent to eliminate confusion for students, faculty, and staff.

REPORTING REQUIREMENTS: By July 7, 2014, the University will submit to OCR the revised grievance procedure and related documents referenced in Action Item 1 above. Within 60 calendar days after receiving written notification from OCR approving the revised procedures referenced in Action Item 1 above, the University will provide OCR with documentation demonstrating its compliance with Action Item 2 above, including: copies of the notices issued to students and employees; a link to all of the revised Title IX policies and procedures on the University's website, and copies of any other additional means of notification the University uses. By July 7, 2015, the University will submit to OCR copies of all Title IX grievances made under the University's Title IX grievance procedure during the 2014-2015 year. The University will provide OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals. OCR reserves the right to extend the time period the University is required to submit documentation of Title IX grievances alleging sexual harassment if OCR identifies any compliance concerns identified in the University's responses to complaints received.

Training and Professional Development

3. Within 90 calendar days of receipt of the OCR-approved revised policies and procedures, the University will provide training, which it will thereafter conduct on a periodic basis, to all University personnel, on the University's revised Title IX policies and

procedures. The University will require that all new employees are given the training at the time of hire. The training will address, but need not be limited to, the following: making staff aware of the existence of the Title IX policies and procedures; providing essential guidance and instruction on recognizing and appropriately addressing allegations and complaints of sex discrimination; notifying personnel of their duty to report any alleged sex discrimination or harassment of which they become aware; and explaining the University's responsibilities under Title IX to address allegations of sexual harassment and discrimination.

REPORTING REQUIREMENTS: Within 90 calendar days of receipt of the OCR-approved revised policies and procedures, the University will provide OCR with documentation that it has provided University personnel with the training referenced in Action Step 3 above, including the dates and duration(s) of the training(s); the name, title and qualifications of the trainer(s); and copies of any training materials used or distributed during the training(s) (e.g., outlines, handouts, PowerPoints) and sign-in sheets with the names and titles of the individuals who attended the training. The University will also provide OCR with documentation that the training has been incorporated into its training program for new employees.

Climate Assessment

4. By December 15, 2014, and again by December 15, 2015, the University's Title IX Coordinator will conduct assessments of campus climate to assess the effectiveness of steps taken pursuant to this Agreement, or otherwise by the University, to provide for a campus free of sex discrimination, including sexual harassment. The purpose of the climate checks is to, at a minimum, assess the scope of the students' and employees' knowledge of what constitutes sex discrimination (including sexual harassment); any personal or observed experiences with sex discrimination while attending the University; the students' and employees' view of the current climate at the University regarding these issues and any potentially problematic areas on campus (e.g., dormitories, athletic facilities); the students' and employees' knowledge and understanding of the University's Title IX policies and procedures and to whom to report sex discrimination (including sexual harassment) should they witness or experience it; and suggestions for steps the University could take to effectively address these issues. A climate assessment can be conducted in many ways, including but not limited to a survey distributed in-person or online, or a poll conducted in-person or online. In addition, the campus may organize an open forum information session for students and employees, and designated, publicized walk-in hours for campus community input. If the University opts to use a survey or poll, the University first will submit the survey or poll to OCR for review and approval prior to its distribution. The University will use information gathered during these climate assessments to inform future proactive steps taken by the University to provide for a safe educational environment and compliance with Title IX. Finally, part of the University's ongoing climate assessments will include ensuring students and employees know who they can report concerns about sex discrimination to, and which sources are confidential sources and which are required to report the information to the University.

REPORTING REQUIREMENTS: By December 31, 2014, and December 31, 2015, the University will provide OCR with documentation demonstrating implementation of Action Item 8, including a description of how, when, and by whom the climate assessments were completed, copies of any student and employee written responses to surveys or narrative summaries of verbal responses, summaries of other relevant information obtained, and documentation demonstrating the actions that the University plans to take in response to the information gathered during the climate checks. By December 31, 2015, the University will also submit documentation to OCR verifying the implementation of any actions determined to be appropriate as a result of the 2014 assessment.

GENERAL REQUIREMENTS

The University understands that by signing this Agreement it agrees to provide data and other information in a timely manner. Further the University understands that during the monitoring of this Agreement, 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(b), which was at issue in this case.

The University understands that OCR will not close the monitoring of the Agreement until OCR determines that the University has fulfilled the terms of the Agreement and is in compliance with Title IX and its implementing regulation at 34 C.F.R. § 106.8(b).

The University 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 University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/ Daniel J. Curran
President or Authorized Designee

6/18/14
Date