

**Resolution Agreement
Hampshire College
OCR Compliance Review No. 01-14-6001**

Hampshire College (the College) has voluntarily entered into the following agreement (Agreement) with the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced compliance review and to ensure the College's compliance with Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex.

The College has entered into this Resolution Agreement to conclude OCR's compliance review and to ensure that its Title IX program is compliant with Title IX.¹ OCR recognizes that the College has engaged in ongoing and proactive efforts to enhance the effectiveness of its Title IX program. Since the initiation of this review in July 2014, the College has improved and updated its Title IX program. The College agrees to continue its process of appropriately responding to all incidents of sexual harassment, including sexual violence, of which the College has notice (including incidents of which the College knew or reasonably should have known); taking prompt and effective steps to end sexual harassment, including sexual violence; and eliminating any hostile environment, preventing its recurrence, and, as appropriate, remedying its effects, as required by Title IX.

In order to address the compliance violations and concerns identified in Compliance Review No. 01-11-6001, the College agrees to the following terms:

Action Item I: Title IX Grievance Procedures

The College has submitted to OCR for its review and approval revisions to its "Sexual Misconduct, Relationship Violence, and Stalking Policy" (SMP).² Once approved by OCR, the College will promptly revise any related policies, procedures, flowcharts, and other materials to ensure consistency and to remove any conflicting or inconsistent information published in hard copy or electronically.

The College will ensure that notice is provided to students (including Five College Interchange Students³ enrolled in College classes) and employees (including Five College Shared Employees⁴) of the existence of the revised SMP, and that the revised SMP is widely distributed. In addition, the College will provide updated information to Five Colleges, Incorporated

¹ The College has expressed that it will promptly comply with the terms of this Agreement and, if so, the College anticipates that OCR will close this monitoring no later than December 31, 2019 if all terms have been met.

² "Review and approval" as used throughout this Agreement means that if OCR determines that the College must take any corrective action(s) with respect to the documentation, material, or information that the College is required to submit, OCR will provide the college with notice of the corrective action and an opportunity to discuss the scope of the action. Unless otherwise specified in this Agreement, the College will take the required corrective action within 30 calendar days of OCR's notification to the College.

³ "Five College Interchange Students" as used throughout this Agreement means students, not including Hampshire College students, taking courses at the College through the Five College Interchange.

⁴ "Five College Shared Employees" as used throughout this Agreement means shared employees between Hampshire College and another higher education institution, including Five Colleges, Incorporated.

regarding the grievance procedures applicable to Five College Interchange Students at the College (whether they are complainants or respondents).

The College has represented that it has revised the SMP and related documents to include:

1. Notice of the grievance procedures that apply to complaints alleging all forms of sexual harassment, including sexual violence, filed against third parties and against Five College Interchange Students and Five College Shared Employees, including where complaints may be filed.
2. A designated and reasonably prompt timeframe for the Initial Assessment. The College has designated a timeframe for its Formal Resolution process (including investigation, finding, sanction and appeal), but does not similarly designate a timeframe for its Initial Assessment.
3. An assurance that following a respondent's withdrawal or resignation from the College before a final outcome is reached, the College's Title IX process will continue regardless of whether the complaint is in the formal resolution stage to ensure that the College is meeting its obligation under Title IX to take prompt and effective steps to end sexual harassment, including sexual violence; and eliminate any hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

Reporting Requirements

1. The College has submitted to OCR for its prompt review and approval revisions to the SMP, along with any related documents that address complaints alleging sexual harassment, including sexual violence.
2. Upon receipt of written approval from OCR that the revised SMP and any related documents conform with Title IX and this Agreement, the College will certify to OCR that the College has formally adopted the revised SMP and any related documents, updated all printed publications and online publications with revised SMP and any related documents, and electronically disseminated the revised SMP to students and employees. The College anticipates that this term shall be satisfied no later than September 15, 2018. The College will provide OCR the following documentation:
 - a. Evidence of the electronic dissemination of the revised SMP to students and employees;
 - b. A list of the titles of the publications in which the information appears (e.g., website, student handbook, Title IX brochure);
 - c. A copy of any such publications or a link to a website containing the revised publication;

- d. An assurance that the Title IX Coordinator and Deputy Coordinators, Human Resources staff, students, employees, and other appropriate College community members have access to the revised SMP and know where copies may be obtained; and
- e. Documentation of how the revised SMP was distributed to Five Colleges, Incorporated.

Action Item II: Title IX Training

General Training

Within sixty (60) calendar days of written approval from OCR that the revised SMP and any related documents conform with Title IX and this Agreement, the College will provide training on the amended provisions of the revised SMP to its Title IX Coordinator, Deputy Title IX Coordinator, Human Resources staff, and any other College officials directly involved in receiving, processing, investigating, adjudicating, or resolving complaints of sexual harassment, including sexual violence, or who will otherwise coordinate the College's compliance with Title IX.

The additional training provisions below for decision-makers and investigators are proactive and are not based on any violations or concerns identified in OCR's review. The College has provided prior Title IX trainings for decision-makers and investigators on investigative techniques to comport with Title IX. The College represents that these trainings have included some or all of the elements below.⁵

Decision-Makers

In addition to the General Training above, the College agrees to provide documentation to OCR demonstrating that decision-makers of Title IX proceedings are or shall be trained on the following:

1. Understanding conflicts of interest and the process to recuse themselves if needed to preserve the impartiality of the resolution.
2. Ensuring that each party had or has the same meaningful access to information that will be used during any informal or formal disciplinary meeting or hearing, including the investigation report. Furthermore, if not clearly identified already, the identification of each informal and formal meeting and hearing that may occur in the resolution process.
3. Ensuring that disciplinary sanctions shall (1) be made for the purpose of deciding how to best enforce the school's code of conduct; (2) consider the impact of separating a student from his/her education; and (3) be a proportionate response to the violation.

⁵ The elements of the trainings for decision-makers and investigators listed below were explained in OCR's September 22, 2017 Questions and Answers on Sexual Misconduct.

Investigators

In addition to the General Training above, the College also agrees to provide documentation to OCR demonstrating that its Title IX investigator(s) are or shall be trained and charged with:

1. Objectively evaluating the credibility of parties and witnesses; and
2. Obtaining, analyzing, and documenting both inculpatory and exculpatory evidence.

Reporting Requirement

1. Within thirty (30) calendar days of the General Training required by Action Item II, the College will certify to OCR that the trainings have occurred. The College will provide OCR the following documentation: the date(s) of the trainings, the name(s) and title(s) of the trainer(s), a copy of any materials used or distributed during the trainings, and a sign-in sheet or other evidence of attendance with the names and titles of the individuals who attended the trainings.
2. Within sixty (60) calendar days of the date of this Resolution Agreement, the College will provide documentation to OCR demonstrating that its prior trainings for decision-makers and Title IX investigators included the elements identified above or certifying that the elements will be included in the College's next scheduled annual training, which is scheduled for the summer of 2018.

If the elements will be included in the College's next scheduled annual training, the College will provide OCR the following documentation within thirty (30) calendar days of the annual training: the date(s) of the trainings, the name(s) and title(s) of the trainer(s), a copy of any materials used or distributed during the trainings, and a sign-in sheet or other evidence of attendance with the names and titles of the individuals who attended the trainings. Future training(s) shall avoid the application of sex stereotypes to help ensure objectivity and impartiality.

Action Item III: Coordination within the Consortium

The College will take steps within its control to coordinate with other Five College institutions and Five Colleges, Incorporated to appropriately respond to all incidents of sexual harassment, including sexual violence, of which the College has notice (including incidents of which the College knew or reasonably should have known); take prompt and effective steps to end sexual harassment, including sexual violence; and eliminate any hostile environment, prevent its recurrence, and, as appropriate, remedy its effects, as required by Title IX.

To meet this requirement, the College has incorporated revised language in the SMP (see Action Item I), has agreed to implement an internal written protocol detailing how the College will respond to a report involving a Five College Interchange student or Five College Shared Employee (either as a complainant or respondent), and has agreed to commence discussions with the other Five College institutions and/or Five Colleges, Incorporated regarding the

implementation of a Memorandum of Understanding (MOU) across all of the Five Colleges. The SMP revisions, internal written protocols, and MOU will endeavor to ensure that:

1. Five College Interchange Students who register for courses at the College receive notice of the Title IX grievance procedures applicable to them as a respondent or a complainant, including where complaints may be filed.
2. Five College Shared Employees hired part- or full-time at the College receive notice of the (a) Title IX grievance procedures applicable to them as a respondent or a complainant, including where complaints may be filed; and (b) Title IX grievance procedures applicable to students and Five College Interchange Students at the College.
3. Contact information for the Title IX Coordinators at other Five College institutions will be included as a cross-reference in the College's Title IX grievance procedures or the College's website.
4. The Title IX Coordinator(s) at each Five College institution promptly and effectively communicate(s) with one another about Title IX cases involving Five College Interchange Students or Five College Shared Employees (e.g., where a Title IX complaint involves a respondent or complainant from another Five College institution, or where a Title IX complaint involves a Five College Interchange Student or Five College Shared Employee but occurs on the College's campus) from the initial report to the institution or campus police through the final outcome.

Reporting Requirement

1. By September 15, 2018, the College will provide the following to OCR:
 - a. Documentation that Five College Interchange Students who register for courses at the College have received notice of the Title IX grievance procedures applicable to them as a respondent or a complainant at the College, including where complaints may be filed.
 - b. Documentation that Five College Shared Employees hired part- or full-time at the College receive notice of the (a) Title IX grievance procedures applicable to them as a respondent or a complainant, including where complaints may be filed; and (b) Title IX grievance procedures applicable to students and Five College Interchange Students at the College.
 - c. Documentation that contact information for the Title IX Coordinators at other Five College institutions is included through a cross-reference in the College's Title IX grievance procedures or on the College's website. Such documentation shall be submitted to OCR pursuant to the Reporting Requirements in Action Item I.
 - d. Documentation that the College has developed and implemented an internal written protocol for the College's Title IX Coordinator to promptly and effectively communicate with other Five College institutions' Title IX Coordinators about Title IX cases involving multiple Five College institutions. This documentation will include a draft of the internal written protocol.

2. By May 1, 2018, the College will provide OCR a draft of the MOU required by Action Item III.
3. Once the MOU is approved by OCR, the College will commence discussions within sixty (60) calendar days with the other Five College institutions and/or Five Colleges, Incorporated regarding the implementation of the MOU across all of the Five Colleges. On or around December 31, 2018 and June 30, 2019, the College will provide OCR updates on the status of the discussions with the other Five College institutions and/or Five Colleges, Incorporated, including the names and titles of the persons involved from each Five College institution and a narrative of the steps taken towards developing a MOU that provides the assurances listed in Action Item III.

Action Item IV: Notice of Non-Discrimination

The College has submitted to OCR for its review and approval a revised notice of non-discrimination (the “Notice”).⁶ The College has represented that the Notice states that the College does not discriminate on the basis of sex in its programs, activities, or employment and that it is prohibited from doing so by Title IX and its implementing regulation. The College also represents that the Notice includes the name, title, office address, telephone number, and electronic mail (email) address of the College’s designated Title IX Coordinator(s) and the office address, telephone number, and email address of OCR. The College also represents that the Notice includes a statement that inquiries regarding the application of Title IX and its implementing regulation may be referred to the Title IX Coordinator(s) or to OCR.

The College will broadly disseminate its revised Notice, including on the College’s website and in its promotional materials, student and employee handbooks, application forms and its other published materials, to applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the College in accordance with 34 C.F.R. § 106.8(a). Inserts may be used pending reprinting of the publications.

Reporting Requirements

1. The College has provided a copy of its revised Notice to OCR for its prompt review and approval.
2. Upon receipt of written approval from OCR that its revised Notice conforms with Title IX and this Agreement, the College will provide OCR with documentation of the College’s wide dissemination of its revised Notice, including copies of any publications and web links to any electronic publications containing the Notice. The College anticipates that this term shall be satisfied no later than August 15, 2018.

⁶ Some, but not all, of the College’s Notice(s) complied with Title IX. The College has elected to use one uniform, revised Notice.

Action Item V: Review of Case Files⁷

Prospective Review by OCR: 2018-2019 Academic Year

The College will submit for OCR's review and approval all case files that the College processed under its revised SMP, as reviewed and approved by OCR in accordance with Action Item I, for complaints received during the 2018-2019 academic year. The College will also submit to OCR all documentation related to the College's processing of each case file whether or not there was a formal resolution, such as the initial complaint, witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, documentation regarding interim measures offered and/or provided, final disposition letters, hearing records, disciplinary records, documentation regarding any appeals, and documentation regarding additional steps to stop harassment found to have occurred, prevent its recurrence, and remedy its effects on complainants and others, as appropriate.

Retrospective Review by the College: 2011-2018 Academic Years

The College will review the following case files to determine whether each case file was investigated promptly and equitably:

1. All case files from academic years 2014-2015, 2015-2016, 2016-2017, and 2017-2018. The College's review of these case files will include an assessment of whether the case was resolved in a manner consistent with Title IX, including the revised procedures in Action Item 1, and whether there are additional investigative steps, individual remedies or broad remedies necessary to identify and address any continuing pattern of sexual harassment, including sexual violence. The outcome of the College's review of the case files may depend on whether the complainant or respondent is still affiliated with the College.
2. All case files from academic years 2011-2012 through 2013-2014 in which the College discontinued its resolution process before completing an investigation and/or hearing because the respondent withdrew (student) or resigned (employee) from the College (7 cases) or because the complainant elected not to move forward with the process (6 cases). The College's review of these case files will include an assessment of whether the case was resolved in a manner consistent with Title IX, including the revised procedures in Action Item 1, and whether there are additional investigative steps, individual remedies or broad remedies necessary to identify and address any continuing pattern of sexual harassment, including sexual violence.

Specifically, the College's review of these case files should also consider whether an investigation into the allegations should be initiated or completed in order to identify trends, identify additional complainants who may have been subjected to similar behavior by the respondent, and meaningfully assess and resolve a potentially hostile, unsafe, or

⁷ As used herein, "case files" refers to all complaints of sexual harassment, including sexual violence, received by the College.

discriminatory environment for the complainants or other members of the College community.

The outcome of the College's review of the case files may depend on whether the complainant or respondent is still affiliated with the College.

3. All case files from academic years 2011-2012 through 2013-2014 that involved one or more parties from a different Five College institution (8 cases). The College's review will include an assessment of whether the complainant was provided with access to reasonably available interim measures and sufficient notice of the applicable Title IX grievance procedures, whether the case was resolved in a manner consistent with Title IX, including the revised procedures in Action Item 1, and whether there are additional investigative steps, individual remedies or broad remedies necessary to identify and address any continuing pattern of sexual harassment, including sexual violence.

Specifically, the College's review of these case files should also consider whether an investigation into the allegations should be initiated or completed in order to identify trends, identify additional complainants who may have been subjected to similar behavior by the respondent, and meaningfully assess and resolve a potentially hostile, unsafe, or discriminatory environment for the complainants or other members of the College community.

The outcome of the College's review of the case files may depend on whether the complainant or respondent is still affiliated with the College.

Reporting Requirements

1. By July 31, 2019, the College will provide OCR with the case files and related documentation for academic year 2018-2019 for OCR's prospective review.
2. By December 31, 2018, the College will provide OCR with the results of its retrospective case file review, including, but not limited to, any actions taken by the College and remedies put in place by the College as a result of its review.
3. If OCR determines that the College must take any different or further action(s) and/or provide any different or further remedies, OCR will provide the College with timely notice of the proposed corrective action and an opportunity to discuss the scope of the action. The College will initiate the corrective action(s) within thirty (30) calendar days of receipt of OCR's determination and provide OCR with documentation of the corrective action taken within sixty (60) calendar days of receipt of OCR's determination.

General Requirements

The College understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the College understands that during the monitoring of this Agreement, if necessary, OCR may visit the College to interview staff and students, and

