

Resolution Agreement
SUNY Broome Community College
Case No. 02-14-2323

In order to resolve the compliance concerns identified in Case No. 02-14-2323, the College assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation at 34 C.F.R. Part 106.

Action Item 1: Title IX Coordinator

By November 30, 2014 the College will take steps to ensure that all students, employees, and beneficiaries are notified of the name and/or title, office address, telephone number, and email address of the person(s) designated to coordinate its efforts to comply with Title IX.

Reporting Requirement: By November 30, 2014, the College will provide to OCR documentation of its compliance with Action Item 1, including copies of the printed versions of all publications disseminated to students and employees containing the required notification, and printouts or a link to all on-line publications containing the required notification. Inserts may be used pending reprinting of these publications.

Action Item 2: Grievance Procedures

By November 30, 2014, the College will revise its grievance procedures to address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence). These procedures will provide for the prompt and equitable resolution of complaints by students, employees, and beneficiaries alleging all forms of discrimination on the bases of sex and age. The procedures will include at a minimum:

- notice that the procedures apply to complaints alleging all forms of sex discrimination (including sexual harassment, sexual assault, and sexual violence) against employees, students, or third parties;
- an explanation to students and all types of employees of how to file a complaint pursuant to the procedures;
- the name or title, office address, email address, and telephone number of the individual(s) with whom to file a complaint;
- definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault and sexual violence);
- a statement that responsible employees are expected to promptly report sexual harassment that they observe or learn about;
- provisions for the prompt, adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence;
- provisions for the investigation of complaints when the complainant does not choose to proceed with an informal or formal resolution or a hearing;
- provisions to indicate that the College has an obligation to make reasonable efforts to investigate and address instances of sex discrimination when it knows or should have known about such instances, regardless of complainant cooperation and involvement;

- provisions ensuring that the parties are afforded similar and timely access to any information used at the hearing;
- clarification that any informal resolution mechanism set forth in the procedures will only be used if the parties voluntarily agree to do so, that the complainant should not be required to resolve the problem directly with the respondent and that there will be instances when the informal resolution mechanism may be inappropriate (e.g., mediation is prohibited in cases of sexual assault, and those involving a student complaining of sexual harassment against an employee in a position of authority over the student); and that the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process;
- a statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination and sexual harassment;
- designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution, and appeal processes, if any;
- an assurance that victims will be made 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;
- 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;
- a provision indicating that the College will implement appropriate interim steps 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;
- provisions indicating the availability of interim measures during the College's investigation of possible sexual harassment (such as how to obtain counseling and academic assistance in the event of a sexual assault, and what interim measures can be taken if the alleged perpetrator lives on campus and/or attends classes with the victim), and that such interim measures will not disproportionately impact the complainant;
- an assurance that the complaint and investigation will be kept confidential to the extent possible;
- written notice to both parties of the outcome;
- notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals;
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker;
- an assurance that steps will be taken to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy the discriminatory effects on the victim(s) and others, if appropriate;
- examples of the range of possible disciplinary sanctions, and the types of remedies available to victims and others; and
- a statement that retaliation is prohibited against any individual who files a sex discrimination complaint under Title IX or participates in a complaint investigation in any way.

Reporting Requirements

- a) By November 30, 2014, the College will provide its revised grievance procedures to OCR for review and approval.
- b) Within thirty (30) days of the College's receipt of OCR's approved revised grievance procedures, the College will provide OCR with documentation to substantiate that it has formally adopted the OCR-approved revised procedures; updated its printed publications and on-line publications with the revised procedures (inserts may be used pending reprinting of these publications); and electronically disseminated the revised grievance procedures to students and employees. This documentation will include at a minimum (i) printouts or a link to all on-line publications containing the revised grievance procedures; (ii) evidence of the electronic dissemination of the revised grievance procedures to students and employees; and (iii) if not yet finalized, copies of inserts for printed publications.
- c) By February 1, 2015, the College will provide to OCR copies of the printed versions of all publications disseminated to students and employees containing the revised grievance procedures.

Action Item 3: Complaint Reviews

By December 31, 2014, the College will review all complaints filed during and since academic year 2013-2014, including the complainant's complaint, to determine whether each complaint was handled consistent with the criteria set forth in the revised procedures described in Action Item 2, above. The College will take appropriate action to address any problems identified in the manner in which these complaints were handled; including providing appropriate remedies that may still be available for the complainants in these cases, such as counseling or academic adjustments. These reviews will carefully scrutinize areas of concern to OCR; i.e., whether the College failed to investigate a complaint of which it had notice; whether the College failed to promptly and adequately investigate a complaint or report of harassment; whether the College provided notice of the outcome of the complaint investigation to the alleged victim and the alleged harasser; and, whether the College took steps to prevent the recurrence of harassment and to address any hostile environment created by the harassment.

Reporting Requirement: By December 31, 2015, the College will provide to OCR a report its review of complaints filed during and since academic year 2013-2014. At a minimum, this report will identify any complaints that were not handled consistent with the criteria set forth in Action Item 2, above; and, will indicate the action that will be taken to address any problems identified.

Action Item 4: Training

By November 30, 2014, and annually thereafter, the College will provide training to its Title IX Coordinator, any other coordinators, and any College officials and administrators who will be directly involved in processing, investigating and/or resolving complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence), or who will otherwise coordinate the College's compliance with Title IX. The College's training will cover the College's new grievance

procedures for Title IX complaints and will provide attendees with instruction on recognizing and appropriately addressing allegations and complaints pursuant to Title IX. The training will include information concerning what constitutes sex discrimination (including sexual harassment, sexual assault, and sexual violence), and the College's responsibilities under Title IX to address allegations of sex discrimination. Additionally, the training will include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations.

Reporting Requirements: By December 15, 2014, the College will provide OCR with documentation demonstrating that it provided training in accordance with Action Item (4) above. The documentation will include, at a minimum, the name(s) and credentials of the trainer(s), the date(s) and time(s) of the training(s), the names of staff in attendance, and copies of any training materials distributed.

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 regulations implementing Title IX, at 34 C.F.R. §§106.8 and 106.31, which were at issue in this case. The College also 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, and with notice to the College, 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 regulations implementing Title IX, at 34 C.F.R. §§106.8 and 106.31, which were 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 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.

October 17, 2014

Date

/s/

authorized official
SUNY Broome Community College