

RESOLUTION AGREEMENT

Niagara University Case No. 02-16-2332

In order to resolve Case No. 02-16-2332, Niagara University (the University) assures the U.S. Department of Education, 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.

By entering into this Resolution Agreement, the University does not admit to any violations of Title IX or any other wrongdoing. Further, in accordance with OCR's Case Processing Manual, the University entered into this Agreement prior to receiving or reviewing the content in OCR's Letter of Findings, and therefore has not accepted or agreed to any facts, conclusions, or findings therein.

Action Item 1: Notice of Nondiscrimination

By September 30, 2017, the University will revise its notice of nondiscrimination to state that the University does not discriminate on the basis of sex (the notice may include other bases) in its programs and activities; and, that this requirement not to discriminate extends to employment and admission as applicable. The notice will also state that inquiries concerning the application of the regulation implementing Title IX may be referred to Title IX Coordinator or to OCR's Assistant Secretary. The University will ensure that the notice of nondiscrimination is included in each announcement, bulletin, catalog, or application form which the University makes available to students, parents, employees, applicants for employment, unions, and professional organizations holding collective bargaining or professional agreements with the University.

Reporting Requirements:

- a) Within fifteen (15) calendar days of the University's execution of the Resolution Agreement, the University will provide a copy of its proposed notice of nondiscrimination to OCR for review and approval.
- b) Within thirty (30) calendar days of OCR's approval of the revised nondiscrimination notice, the University will provide documentation to OCR demonstrating that the approved notice has been adopted and published; including a list of the titles of the publications in which the notice of nondiscrimination appears (e.g. the Code of Conduct, Employee Handbook) and a copy of at least one publication disseminated to the University community, or printouts or a link to an on-line publication containing the notice. Inserts may be used pending reprinting of the materials and publications.

Action Item 2: Grievance Procedures

By November 30, 2017, the University will adopt and publish revised grievance procedures that provide for the prompt and equitable resolution of complaints alleging all forms of

discrimination (including harassment) on the basis of sex (and may include other bases). The University will ensure that the revised procedures contain the following provisions, to the extent not already included:

- Notice that the procedures apply to complaints alleging all forms of discrimination on the basis of sex (including sexual harassment and sexual assault) by employees, students, and third parties¹;
- an explanation as to how to file a complaint pursuant to the procedures;
- the name/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 and sexual assault);
- designated and reasonably prompt timeframes for major stages of the grievance process;
- an equal opportunity for the parties to provide witnesses and other evidence;
- notice to the parties of the outcome;
- an assurance that the University will take steps to prevent the recurrence of discrimination and harassment, and to correct its discriminatory effects, if appropriate;
- examples of the range of possible disciplinary sanctions and the types of remedies available;
- a statement that the University prohibits retaliation against any individual who files a complaint or participates in a complaint investigation;
- a statement that responsible employees are expected to promptly report harassment that they observe or learn about;
- provisions indicating the availability of interim measures during the University's investigation of possible 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 attends classes with the alleged victim), and that such interim measures will not disproportionately impact the alleged victim;
- notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals; and,
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker.

The University asserts that its previous procedures substantially conformed to these requirements and assures OCR that its grievance procedures will conform to these requirements as set forth above.

Reporting Requirements:

- (a) By September 30, 2017, the University will provide to OCR a draft of the revised grievance procedures for OCR's review and approval.

¹ The University may have separate procedures for students, employees and third parties; however, taken as a whole, the procedures must cover employees, students and third parties.

- (b) Within sixty (60) calendar days after the University's receipt of OCR's approval of the revised grievance procedures, the University will provide documentation to OCR to demonstrate that it has adopted the OCR-approved procedures and updated its printed publications and on-line publications to include the revised grievance procedures. Inserts may be used pending reprinting of these publications. This documentation will include, at a minimum, (i) printouts or a link to all on-line publications containing the grievance procedures; and (ii) copies of relevant pages, or if not yet finalized, copies of inserts, for printed publications. If inserts were used for any publications, then by November 30, 2017, the University will provide to OCR copies of the relevant pages of printed versions of all publications disseminated to students and employees containing the grievance procedures. Dissemination may occur by the methods usually employed by the University for distributing University policies and procedures, including posting on the University's website.

Action Item 3: Remedies for Students

Within fifteen (15) calendar days of the University's execution of the Resolution Agreement, the University will assess, with respect to each of the students it determined were subjected to sexual harassment by the professor during academic year 2015-2016 (whether the determination was made in connection with the University's investigation initiated in xxxx 2016 or any other investigation completed by or on behalf of the University), whether remedial action is necessary to overcome the effects of such sexual harassment, such as counseling services, and/or academic or housing accommodations; and, will take any necessary remedial action by September 1, 2017.

Reporting Requirement: By September 30, 2017, the University will provide documentation to OCR demonstrating the University's compliance with Action Item 3 above. The documentation will include, at a minimum, a list of those students identified pursuant to Action Item 3, by unique identifier and actual or anticipated graduation date; a description of the steps taken by the University to assess whether remedial action is necessary to overcome the effects of such sexual harassment; the outreach made by the University to each student, including any letters, electronic mail (email) messages, memorandum, notices or other correspondence regarding such remedial action; any letters, email messages, or other correspondence from each student requesting remedial action; and documentation that such remedial action has been taken by the University. The University may redact all identifying information from any documents submitted to OCR under Action Item 3 in accordance with state and federal law. The University agrees that if OCR determines that unredacted information is necessary in order to determine the University's compliance with Action Item 3, the University will provide such unredacted information within the time period requested by OCR.

Action Item 4: Training

The University has advised OCR that it currently provides and will continue to provide regular in-person or online training to all employees responsible for recognizing and reporting incidents of sexual harassment and staff with Title IX compliance and implementation responsibilities,

which may include Title IX Coordinators, deputy coordinators, residential assistants, campus safety officers, and all responsible employees pursuant to Title IX. The University has advised OCR that it has established a website providing information for reporting that provides a link for such trainings, which can be accessed by students, employees, and the public at <https://www.niagara.edu/oei>. By November 30, 2017, the University will provide training to all University officials, administrators, faculty, or staff who are responsible employees for recognizing and reporting incidents of sexual harassment. The training will cover, at a minimum: the University's revised grievance procedures; the obligation of responsible employees to report sexual harassment; how to recognize and identify sexual harassment, including sexual assault/violence and behaviors that may lead to and result in sexual violence; the University's responsibilities under Title IX to address such allegations; and the relevant resources available. During the trainings, the University will provide copies of its revised Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess.

The University has further advised OCR that it has provided and intends to continue to provide the University's Title IX coordinator with training including but not limited to training with the Association of Title IX Administrators (ATIXA) and the New York State Police regarding Title IX and the coordinator's obligations under the law. By November 30, 2017, the University will also provide training to its Title IX coordinator and any other University employees or third parties directly involved in receiving, processing, investigating, adjudicating and/or resolving complaints of sexual harassment, including sexual assault/violence. The training will include instruction on the University's revised Title IX grievance procedures; the University's obligation regarding investigation of complaints; and, how to conduct adequate, reliable and impartial Title IX investigations for those charged with investigative duties. The training will also include information regarding the provision of interim measures and the need for remedial actions for the perpetrator, complainant, and University community. Finally, the training will stress fully documenting all steps of an investigation and resolution, such as testimony collected from witnesses, the start and stop dates of any investigation suspension, the offer and acceptance/decline of interim relief, and the issuance of notice to any party.

Reporting Requirement: By December 31, 2017, the University will provide documentation to OCR demonstrating that training was provided in accordance with Action Item 4 above. The documentation will include, at a minimum: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, and the names and titles of the individuals who attended the training.

Action Item 5: Complaint Reviews

By September 30, 2017, the University will review all sexual harassment complaints filed during academic years 2015-2016 and 2016-2017. The University will review these files to determine whether the University investigated each complaint or report promptly and equitably, including but not limited to, specifically determining whether the University used the appropriate definitions and analyses of sexual harassment and hostile environment under Title IX; used the preponderance of the evidence standard; provided interim measures to protect the complainants

and others during the pendency of the investigation; provided written notice of the outcome (including any appeal) and appeal rights to the complainants and the accused; and took steps to prevent the recurrence of sexual harassment and to address any hostile environment created by any sexual harassment. For any complaints which the University determines were not investigated in accordance with the requirements of Title IX, the University will take appropriate action to address any problems identified regarding the manner in which these complaints were handled, including providing appropriate remedies that may still be available for the complainants and/or accused students in these cases, such as counseling or academic adjustments.

Reporting Requirements:

- a) By October 31, 2017, the University will provide to OCR, for review and approval, the results of the University's review conducted pursuant to Action Item 5. At a minimum, the report will identify any complaints or reports that were not handled promptly and equitably; materials relating to the University's review and determination for each complaint, including, but not limited to: copies of the complaints; interview statements; a description of evidence reviewed; documentation of interim and remedial measures offered to the parties; a copy of the notice of the outcome of the investigation provided to the parties or a description of how it was provided; and, the University's planned action(s) to address any problems identified in its review. The University may redact all identifying information from any documents submitted to OCR under Action Item 5 in accordance with state and federal law. The University agrees that if OCR determines that unredacted information is necessary in order to determine the University's compliance with Action Item 5, the University will provide such unredacted information within the time period requested by OCR.
- b) Within 45 days of OCR's approval, the University will provide documentation to OCR demonstrating that the University has taken appropriate action to address any problems identified in its review.

Action Item 6: Documentation and Submission of New Complaints

By July 1, 2018 and 2019, the University will submit to OCR complete copies of its files for academic years 2017-2018 and 2018-2019, respectively, documenting the University's responses to complaints of sexual harassment, including sexual assault/violence. Such files shall include, at a minimum: copies of the complaints; interview statements; a description of evidence reviewed; documentation of interim and remedial measures offered to the parties; and, a copy of the notice of the outcome of the investigation provided to the parties or a description of how it was provided. The University may redact all identifying information from any documents submitted to OCR under Action Item 6 in accordance with state and federal law. The University agrees that if OCR determines that unredacted information is necessary in order to determine the University's compliance with Action Item 6, the University will provide such unredacted information within the time period requested by OCR. Along with such files, the University will

submit a tracking report that will include, at a minimum: a list of the complainants and respondents by unique identifier; the conduct alleged; the name and position of the individual(s) who received and processed the initial complaints; the status of the case (e.g., investigation is ongoing, the investigation is suspended due to a request from law enforcement, the University is assessing discipline to be imposed, etc.); the outcome of all completed investigations; and the outcome of any disciplinary matters related to the investigation. If the University submits any files before the case is complete, the University will flag those files as incomplete, and upon request, re-submit those files once the case is completed.

Reporting Requirement: By July 1, 2018 and 2019, the University will provide copies of the files and the tracking reports required in Action Item 6.

The University understands that OCR will not close the monitoring of this agreement until OCR determines that the University has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9 and 106.31, which were at issue in this case. The University 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 University understands that during the monitoring of this agreement, if necessary, OCR may visit the University, interview staff, 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 the regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9 and 106.31. In addition, the University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9 and 100.10), or judicial proceedings, including to enforce this agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

August 21, 2017

/s/

Date

Reverend James J. Maher, C.M.
President
Niagara University