

RESOLUTION AGREEMENT
Case No. 05-14-2516
Marquette University

Marquette University (University) submits the following Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR) to resolve case number 05-14-2516. The University submits this Agreement to ensure its compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulation, 34 C.F.R. Part 106, which prohibits discrimination based upon sex in any education program or activity receiving Federal financial assistance.

ANTI-HARASSMENT/VIOLENCE STATEMENT

- 1) By August 31, 2015, the University will issue a statement to all University students and employees of the University's policy that it does not tolerate sexual misconduct or harassment on the basis of sex, which will be widely published, including by posting on the University's website, student handbook, and posting in all University building(s) and any other means of notification the University deems effective to ensure that the information is widely disseminated. The statement will define harassment on the basis of sex and will acknowledge that prohibited sexual harassment includes sexual violence and any other harassment based on sex or gender and may include examples of sexual harassment and sex- and gender-based harassment. The statement will encourage any student who believes he or she has been subjected to sex harassment, including sexual violence, to report the incident(s) to the University Title IX Coordinator or to the Marquette University Police Department ("MUPD") and note the University's commitment to conducting a prompt investigation, including the procedures under which students may file a complaint of harassment. The statement will identify the individual(s) responsible for investigating complaints of sex harassment, will contain time frames for completion of such investigations and notice to complainants, will provide for appropriate disciplinary sanctions of individuals who engage in sex harassment and will make clear that such discipline may include, if circumstances warrant, suspension or expulsion of a student and suspension or termination of an employee. The statement will warn that students or employees who retaliate against individuals who report sexual harassment will be promptly disciplined. The statement will include identification of, and the office address, email address, and telephone number of its Title IX Coordinator and MUPD. The statement will further include that inquiries to recipients concerning application of Title IX and its implementing regulation may be referred to the Title IX coordinator or to OCR.

REPORTING REQUIREMENT: By September 15, 2015, the University will submit to OCR documentation that the statement referenced in this item has been published, including copies of emails, relevant pages of the University's website, and documentation of the postings in the building(s).

NOTICE OF NONDISCRIMINATION

- 2) By August 1, 2015, the University will review and revise, as necessary, its notice of nondiscrimination, to state specifically that sex discrimination is prohibited by Title IX, and that inquiries about sex discrimination can be referred to the University's Title IX Coordinator or to OCR. The revised notice will include the name and contact information for the University's Title IX Coordinator.

REPORTING REQUIREMENT: By August 15, 2015, the University will submit to OCR for its review and approval the revised notice of nondiscrimination referenced in this item. Within 30 calendar days of receipt of notice of OCR's approval of the revised notice of nondiscrimination referenced in Item #2, the University will adopt and publish the revised notice of nondiscrimination. Publication will be to the University community, including students, faculty and staff. The University will make this notification available through the University's website, via email, digital news briefs, revised student handbooks, and any other additional means of notification the University deems effective to ensure that the information is widely disseminated.

REVIEW OF POLICIES AND PROCEDURES

- 3) By August 1, 2015, the University will review and revise, as necessary, its written policies and procedures relating to sexual harassment to ensure that they adequately address any incident of sexual harassment and provide for the prompt and equitable resolution of complaints alleging any form of sexual harassment, as well as those alleging retaliation. The University will also review and revise grievance procedures providing for prompt and equitable resolution of student complaints alleging any action which would be prohibited by Title IX. The University will ensure that these policies and procedures include, at a minimum, the following:
 - a) a statement setting forth the University's commitment to having a University environment free from all forms of sexual harassment, explaining that the University prohibits sexual harassment occurring in or, if initially occurring off University grounds or outside a University education program or activity, affecting the University environment, encouraging students to immediately report incidents of harassment, emphasizing that staff are required to promptly report incidents of sexual harassment to the Title IX Coordinator, and specifying that the University will investigate formal and informal complaints of sexual harassment;
 - b) examples of the type of conduct and behavior that is covered by the policy, including staff-to-student and student-to-student conduct;
 - c) identification of the kinds of activities and sites where prohibited conduct could occur;
 - d) an explanation of how to report sexual harassment and/or file a complaint (formally or informally) including the name, address, phone number, and email address for the

- University's Title IX Coordinator and MUPD and notice of a student's right to file and pursue a concurrent criminal complaint;
- e) an explanation of the interim measures that can be taken by the University before the final outcome of the investigation (e.g., a no-contact order; changes to academic situations as appropriate with minimum burden on the student; counseling; health and mental services; escort services; and academic support) to respond to allegations of sexual harassment or violence;
 - f) a description of the formal complaint procedures, including a complaint form, designated and reasonably prompt timeframes for major stages of the investigation and for completion of the investigation of a complaint, a requirement that written notice of the outcome be provided to the parties, notice of a student's right not to appear in same hearing room as the accused and an equal opportunity to have a representative at a hearing (if the University's procedures provide for a hearing), a requirement that both parties will be given equal opportunity to access and present evidence, an assurance that both parties will receive periodic status updates, an appeal process for both parties conducted in an impartial manner by an impartial decision-maker, and notice that the University will keep the complaint and investigation confidential to the extent possible;
 - g) an assurance that the University will not require a student who complains of harassment to work out the problem directly with the alleged respondent, including through mediation, and a statement that the student has the right to end the informal process at any time and begin the formal stage of the complaint process;
 - h) an assurance that the University uses in its investigation of complaints a preponderance of the evidence standard of review (*i.e.*, it is more likely than not that sexual harassment or violence occurred);
 - i) specific information as to the name or title and contact information (including office and email address and telephone number) for the University employee(s) responsible for receiving the complaint form and/or investigating reports of sexual harassment;
 - j) a prominent statement that the complainant has the option to pursue a criminal complaint with an appropriate law enforcement agency, to pursue a sexual harassment complaint under the University's complaint procedures, or to pursue both processes simultaneously and that even if a criminal investigation is ongoing, the University will conduct its own Title IX investigation and will not wait for the conclusion of a criminal investigation or proceeding to begin its Title IX investigation;
 - k) a requirement that all employees who observe acts of sexual harassment intervene to stop the harassment, unless circumstances would make such intervention dangerous, and document and report all such incidents to the Title IX Coordinator;

- l) a requirement that designated employee(s) at each University school document all reports of incidents of sexual harassment, and that the University establish a protocol for recordkeeping of such incidents;
- m) a statement that the University will take appropriate disciplinary action against students and staff found to have violated the University policies and procedures addressing sexual harassment, and examples of the range of possible disciplinary sanctions;
- n) a prohibition of retaliation against persons who report harassment or participate in related proceedings, and discipline of individuals who engage in retaliation;
- o) an assurance that the University's primary concern is student safety and, to encourage reports of sexual harassment or sexual violence, that the University will not discipline a student who makes a good faith report of sexual harassment;
- p) a statement that the University will, where appropriate, take reasonable steps to remedy the harm to the affected student(s) of the sexual harassment, and examples of the types of remedies available, including the provision of counseling to students who have been subjected to or who have engaged in sexual harassment, and the provision of academic support, including recalculating any course grades if necessary; and
- q) identification of the means to investigate incidents of sexual harassment, including but not limited to the various steps the University will take to conduct adequate, reliable and impartial investigations of reported incidents, an assurance that the University will take action to stop the harassment, remedy the harassment, and prevent recurrence, and the University's standards for determining whether a hostile environment exists.

REPORTING REQUIREMENT: By August 15, 2015, the University will submit to OCR for its review and approval its revised policies and procedures referenced in this item.

- 4) Within 30 calendar days of receipt of notice of OCR's approval of the policies and procedures referenced in Item #3, the University will adopt, implement and publish the revised policies and procedures. Publication will include notice of the anti-harassment policy, including its formal and informal complaint procedures, to the University community, including students, faculty and staff. The University will make this notification available through the University's website, via email, digital news briefs, revised student handbooks, and any other additional means of notification the University deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT: Within 30 days after the completion of this item, the University will provide OCR with documentation that it has completed this item, including copies of the notices to students, faculty and staff regarding the revised policies and procedures and a description of how the notices were distributed, copies of its revised student handbooks, a link to its webpage where the revised policies and procedures are located, and documentation of any other additional means of notification used by the University.

TRAINING OF UNIVERSITY PERSONNEL

- 5) Within 90 calendar days of receipt of OCR's approval of the revised policies and procedures referenced in Item #3, the University will require all University faculty and staff responsible for recognizing and reporting incidents of sexual harassment and violence to complete effective training relating to the policies and procedures adopted pursuant to Item #4. At a minimum the training will encompass the following:
- a) A reminder of the University's commitment to having an environment free from sexual harassment and violence and an explanation of what they should do if they believe students have been subjected to harassment, including their duty to immediately report all allegations of possible harassment and of the potential for discipline of employees who fail to report sexual harassment.
 - b) A general overview of Title IX, including how the law's nondiscrimination provisions apply to students, the names and contact information for the designated staff member(s) to whom students or others may report allegations of harassment, where to locate the University's harassment policies and procedures on the University's website, and the existence of OCR and its authority to enforce Title IX.
 - c) An explanation of the University's Title IX policies and procedures, including an explanation of what constitutes sexual harassment, the role of the Title IX Coordinator, as well as disciplinary sanctions related to findings of violations of the University's harassment policies and procedures, including the University's policy prohibiting retaliation and intimidation.
 - d) An explanation of the prohibition against retaliation contained in Title IX, and examples of conduct that may constitute retaliation.
 - e) The University will provide effective training described in Item #5 to any faculty, staff or responsible employees identified in Item #5 who are hired after November 1, 2015, within 90 days of the new employee's date of hire.

REPORTING REQUIREMENT: By December 1, 2015, the University will provide OCR with documentation that it has provided the training referenced in this item, including 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 a list of University employees who successfully completed the training.

- 6) Within 90 days of OCR's approval of the University's revised policies and procedures, the University will provide effective training to all employees who are directly involved in processing, investigating and/or resolving complaints or other reports of sexual harassment; any nurses, counselors or other University personnel who are likely to receive confidential reports of sexual harassment; and any hearing officers handling cases involving sexual harassment or misconduct. The training will review the University policies and procedures referenced in Item #3 of this Agreement and include instructions on how to conduct and

document adequate, reliable, and impartial harassment investigations, including the appropriate legal standards to apply in such investigations.

- a) The University will continue to provide the training described in Item #6 to any employees who are directly involved in processing, investigating and/or resolving complaints or other reports of sexual harassment; any nurses, counselors or other University personnel who are likely to receive confidential reports of sexual harassment; and any hearing officers handling cases involving sexual harassment or misconduct every three years or within 90 days of any significant changes to the University's Title IX policies or procedures.
- b) Between 60 and 90 days from the date of this training, the University will conduct surveys of all employees who participated in the training to ensure their understanding and retention of the key concepts discussed in the training, including the University's policies and procedures, and its investigations of cases involving sexual harassment or sexual violence.

REPORTING REQUIREMENT: Within 30 days after the training, the University will provide OCR with documentation that it has provided appropriate University staff with the training referenced in this item, including 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 a sign-in sheet with the names and titles of the University staff who attended the training. Within 120 days of the training, the University will provide OCR with documentation demonstrating its compliance with Item #6(b), above.

STUDENT ORIENTATION & TRAINING

- 7) Beginning with the 2015-16 academic year, the University will provide training regarding sexual harassment to all new students and will provide face-to-face sexual harassment training to all new students during the first four weeks of the fall semester. In addition, all new graduate students will be provided sexual harassment training shortly after arrival at the University. Further, all students who register for classes for the fall semester and beyond will be provided information that includes the following:
 - a) A reminder of the University's commitment to having an environment free from all harassment and explain to students what they should do if they believe they or other students have been subjected to sexual harassment.
 - b) A link to the University's sexual harassment policies and procedures, and an explanation of what constitutes sexual harassment, as well as disciplinary sanctions related to findings of violations of the University's harassment policies and procedures and/or the University's policy prohibiting retaliation and intimidation.
 - c) An introduction of the Title IX Coordinator, an explanation of her role, and the names and contact information for any other designated staff member(s) and alternate staff

and/or counselors to whom students may report allegations of sexual harassment and will encourage students to report harassment they have experienced or observed.

REPORTING REQUIREMENT: By October 15, 2015, October 15, 2016, and October 15, 2017, the University will provide OCR with documentation that it has implemented this item, including copies of the names and titles of employees who presented on the required topics, and copies of any materials that were used or distributed regarding the required topics.

WORKING GROUP

- 8) By September 15, 2015, the University will establish a working group that includes University staff, faculty, and students to make recommendations to the University regarding the effectiveness of the University's anti-harassment program, including the training program described in Item #6 above for all students in the University. The University will designate an employee to coordinate the group's meetings and works. The working group will be asked to provide University officials with input regarding strategies for preventing harassment, ensuring that University students understand their right to be protected from discrimination on the basis of sex, including harassment, and to be protected from retaliation for reporting discrimination, and ensuring University students understand how to report possible violations of the policy and are aware of the University's obligation to promptly and effectively respond to complaints alleging sex discrimination, including harassment. The working group will also provide specific suggestions for developing an effective orientation program that promotes respect and tolerance for others and prevents the establishment of a hostile environment based on sex for students enrolled in the University. The group will consider how and if outreach efforts can be made to garner support for the University's anti-harassment program, and the role students should play in the orientation program. The designated employee will prepare a written summary of the steps the working group has recommended, which will be communicated to the University by November 15, 2015.

REPORTING REQUIREMENT: By September 30, 2015, the University will provide OCR a list of individuals in the working group. By November 30, 2015, the University will provide OCR with a copy of the working group's recommendations and a description of any steps that the University has taken or will take in light of the recommendations. By January 15, 2015, the University will provide documentation of steps taken to implement the working group's recommendations.

CLIMATE SURVEY

- 9) Within 30 days after the University's proposed survey is approved by OCR, , the University will conduct a climate survey to assess the effectiveness of the steps taken pursuant to this Agreement, and otherwise by the University, to achieve its goal of having a school environment free of sexual harassment. The University will send a survey to each student that contains questions about the student's knowledge of sexual harassment policies and procedures and any experiences with sexual harassment while attending the University, and the student's awareness of the University's sexual harassment policies and procedures and

resources available for students. Information gathered through these climate surveys will be used to inform further steps taken by the University.

REPORTING REQUIREMENT: By October 15, 2015, the University will submit to OCR for approval the proposed climate survey. Within 60 days of completion of the survey, the University will provide OCR the results of the survey and provide for OCR's review and approval a description of all actions the University plans to take as a result.

STAY-AWAY DIRECTIVES

10) By November 1, 2015, the University will review its policies and practices regarding the use of Stay-Away Directives in cases involving allegations of sexual harassment or violence. In particular, this review will ensure that in the future, the University tailors Stay-Away Directives to the particular circumstances of each case rather than relying on standard language in all cases. The review will ensure that the University's Stay-Away Directives going forward will prohibit not merely communication between students, but also proximity, with a presumption that the alleged respondent must remove him or herself from proximity with the alleged victim; and that in issuing and enforcing Stay-Away Directives, the University will minimize the burden on the alleged victim of harassment wherever possible. The review will ensure that both the student requesting the Stay-Away Directive and the student who is the subject of the Stay-Away Directive receive written copies and provide written acknowledgment to the University of their receipt. In addition, the review will establish a written procedure for altering Stay-Away Directives based on the circumstances of a given case. This written procedure will be summarized in the body of all Stay-Away Directives issued by the University. Additionally, the review will establish a written procedure for disseminating Stay-Away Directives to all relevant offices in the University, including MUPD and its individual officers, the office of the Dean of Students, and the office of the Vice President of Student Affairs.

REPORTING REQUIREMENT: By December 15, 2015, the University will provide documentation to OCR that it has implemented this item of the Agreement.

REMEDIES SPECIFIC TO THE COMPLAINANT

11) By May 30, 2016, the University will request in writing from the Complainant copies of bills for any private counseling or therapy related to this matter. The reimbursable expenses shall be limited to those incurred during the 12 months following the signing of this Agreement. By June 30, 2016, the University will reimburse the reasonable costs of the Complainant's private counseling related to this matter. Should the University object to any claimed costs as unreasonable, it will notify OCR in writing, and OCR will determine whether the disputed costs are reasonable or unreasonable. Alternatively, the University may, within three weeks of the signing of this Agreement and in lieu of reimbursing the Complainant for her private counseling expenditures related to this matter as set forth above, pay the Complainant a lump sum of \$2,600 to cover private counseling related to this matter.

REPORTING REQUIREMENT: If the University elects to provide the Complainant with a lump sum of \$2,600, it will provide documentation to OCR that it has complied with the terms of this item of the Agreement within two weeks of making payment to the Complainant. If the University does not elect to provide a lump sum payment it will, by June 30, 2016, provide documentation to OCR that it has implemented this item of the Agreement

MAINTENANCE OF DATA

- 12) Effective immediately, the University agrees to maintain documents and other data relating to specific complaints or other reports of sexual harassment of students, regardless of sanction, including the following:
- a) a copy of all written reports, and a narrative of all verbal reports, of incidents involving allegations of sexual harassment of any kind;
 - b) copies of all Stay-Away Directives and written acknowledgments of receipts of same;
 - c) documentation establishing that the University provided notice that the Complainant could elect to pursue criminal charges, Title IX charges with the University, or both simultaneously;
 - d) a narrative of all actions taken in response to the reports by University personnel, including any written documentation;
 - e) a copy of any and all disciplinary sanctions issued to students or employees for violations of the sexual harassment policies and procedures;
 - f) documentation demonstrating any interim and/or remedial efforts offered and provided to the complainant, the accused and/or witnesses of the incident(s), such as counseling or other appropriate services;
 - g) a narrative of all action taken to prevent recurrence of any harassing incident(s), including any written documentation; and
 - h) any audio or video recordings of student conduct hearings in cases involving sexual harassment.

REPORTING REQUIREMENT: By July 30, 2015, July 30, 2016, and July 30, 2017, the University will provide to OCR copies of the documentation referenced in this item for the just-completed academic year.

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, the OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for the OCR to determine whether the University

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 complaint.

The University understands that the 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 regulations implementing and Title IX, at 34 C.F.R. §§106.8 and 106.31, which were at issue in this complaint.

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 or judicial proceedings to enforce the specific terms and obligations of 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.

Approved and agreed to on behalf of Marquette University.

For the University

Date