

Resolution Agreement
Rockford University Complaint
Docket #05-15-2031

Rockford University (University) submits the following Resolution Agreement (Agreement) to the U.S. Department of Education (Department), Office for Civil Rights (OCR) to resolve complaint #05-15-2031. The University submits this Agreement to ensure its compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106 (Title IX), with respect to the issues raised in this complaint. Title IX prohibits discrimination on the basis of sex in programs and activities that receive Federal financial assistance from the Department. To resolve the complaint, the University agrees to the following steps:

I. Title IX Policy and Grievance Procedures

- A. Draft for OCR's review and approval a unified Title IX Policy and Grievance Procedures to provide for the prompt and equitable resolution of complaints by anyone in the University community alleging any action prohibited by Title IX by anyone in the University community that is consistent with the requirements of Title IX. The revised Title IX Policy and Grievance Procedures will include the following:
1. A statement of the University's jurisdiction over Title IX complaints;
 2. Notice that the Title IX Policy and Grievance Procedures apply to complaints of sexual harassment, including sexual assault and sexual violence, carried out by employees, faculty, students, and third parties;
 3. An adequate definition of sexual harassment, including sexual violence, with examples, and an explanation as to when conduct constitutes quid pro quo harassment and when conduct creates a hostile environment;
 4. Notice that the Title IX Policy and Grievance Procedures cover all University programs and activities and that the University will process all Title IX complaints regardless of where the conduct occurred to determine whether the conduct occurred in the context of its educational program or had continuing effects on campus or in an off-campus program or activity;
 5. An assurance that the University will take steps to prevent recurrence of harassment and to correct its discriminatory effects on the complainant and others, if appropriate;
 6. Designation of at least one employee (i.e., Title IX Coordinator) responsible for coordinating the University's efforts to comply with the University's Title IX responsibilities, overseeing the University's response to reports of Title IX violations, and identifying and addressing any pattern or systemic problems;
 7. The name, title, office address, telephone number and email address of the Title IX Coordinator(s), and a description of each Coordinator's role and responsibilities (i.e., who will handle complaints against students, faculty, employees, contractors, third parties, and or visitors);
 8. An explanation of how to report/file a complaint alleging violations of the Title IX Policy, including identification of which staff/employees are responsible for receiving such reports and complaints;

9. Notice that responsible employees must report incidents of sexual harassment to the Title IX Coordinator or other designee subject to counseling employee exemption;
10. Provision for mandatory training for those implementing the grievance procedures (Title IX Coordinator(s), investigators, adjudicators), to include training on the handling of complaints of sexual harassment, the University's Title IX Policy and Grievance Procedures, and applicable confidentiality requirements;
11. Provisions for the prompt, adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
12. Designated and reasonably prompt timeframes for the major stages of the complaint process (including notification to the parties when additional time will be necessary), as well as the process for extending deadlines;
13. Notice that the University will inform the parties at regular intervals of the status of its investigation;
14. Provision for weighing requests by complainants not to proceed with a formal resolution, including criteria for when to proceed with a full investigation and when to limit the investigation (including, for the latter, specification of steps that can be taken while honoring the request);
15. Provision for written notice to the parties of the outcome of the complaint, including whether sex discrimination was found;
16. Notice that sexual violence complaints are not to be mediated;
17. Notice that the parties have the right to end the informal process and begin the formal process at any time;
18. Notice of the availability of confidential reporting and the identity of the employee responsible for evaluating requests for confidentiality and the range of appropriate factors that will be considered in weighing confidentiality requests;
19. Notice that the University will take steps to investigate and respond to complaints, consistent with a complainant's request for confidentiality, but that its ability to respond may be limited in the event of such a request (including pursuing discipline against the accused) and or that it may have to override a request to meet its obligations in limited instances;
20. Notice of the availability of interim measures to protect complainant, as necessary, during the University's Title IX investigation (e.g., no contact order; change academic or living situations as appropriate with minimum burden on complainant; counseling; health & mental health services; escort services; academic support; retake course or withdraw without penalty) and sources of counseling, advocacy and support;
21. Notice that the interim steps will be taken promptly, and at no cost to the complainant, and that the University will continue to take these steps if sexual violence is found to have occurred;
22. Notice of the range of potential remedies and sanctions (may include services separate from or in addition to interim measures offered even if originally declined);
23. Notice to the complainant of the right to proceed with a criminal investigation and a Title IX complaint simultaneously;
24. An assurance that if the complainant files a criminal complaint with a local law enforcement agency, the University will comply with law enforcement agency requests for cooperation and that such cooperation may require the University to

- temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence, and the University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process;
25. Prohibition against conflicts of interest (real or perceived) by those handling (i.e. investigating, issuing findings, determining appeals, issuing sanctions) the Title IX Grievance Procedures;
 26. Description of process by which either party may raise bias or a conflict of interest regarding the Title IX Coordinator(s) or others handling the Title IX Grievance Procedures;
 27. Notice of the rights and responsibilities of both parties and relationships between criminal and Title IX investigations;
 28. Provisions for ensuring that the parties are afforded similar and timely access to any documents and information used at a hearing, including the University's Title IX investigative report;
 29. If applicable, a provision for ensuring that the parties are afforded an equal opportunity to have an advisor/representative of their choice at the hearing (including whether an attorney may serve in this role), and that equal restrictions apply to the ability of advisors/representatives to speak or otherwise participate during the hearing (or equally permitting third party expert testimony; equal cross examination of witnesses; equally present for the entirety of a hearing);
 30. Notice that parties are not restricted from discussing and sharing information relating to their complaint with others that may support them or assist them in presenting their case;
 31. Notice that the parties may not personally question or cross-examine each other during a hearing;
 32. Disallowance of evidence of the Complainant's past relationships with anyone other than accused;
 33. Notice that the preponderance of the evidence standard of proof will be used for investigating and adjudicating Title IX complaints;
 34. Notice that the complainant is not required to be present at the hearing as a prerequisite to proceed;
 35. Provision of fair and equitable appeal/review rights for both parties of the initial investigation/determination regarding the complaint, the hearing outcome, and or the sanctions/remedies, and equal opportunities for both parties to participate in any further process;
 36. Prohibition against retaliation, including retaliatory harassment, and retaliation by third parties; and
 37. Specifications for adequate documentation of the proceedings and adequate record keeping for investigative files.
- B. Upon OCR's approval of the revised Title IX Policy and Grievance Procedures, the University will:

1. Make the Title IX Policy and Grievance Procedures easily accessible on its website in one location, without requiring numerous cross-links to access all pertinent information or a requirement to sign into the student portal;
2. Provide copies of the Title IX Policy and Grievance Procedures to all students in their orientation materials and to all students, faculty, employees and third parties upon being hired; and
3. Provide notice of the Title IX Policy and Grievance Procedures and notice of where complaints may be filed that is easily understood, easily located and widely distributed on publications provided by the University to students and employees in conformance with 34 C.F.R. § 106.9(b).

II. Nondiscrimination Notice

A. Review and revise its Nondiscrimination Notice to ensure the following:

1. It states that the University does not discriminate on the basis of sex in its education program and activities; it is required by Title IX not to discriminate in such a manner; and questions regarding Title IX may be referred to the University's Title IX Coordinator(s) or to OCR; and
2. It provides the name or title, office address, telephone number and email address of the University's Title IX Coordinator(s);

B. After OCR's approval of the revised Nondiscrimination Notice, the University will ensure it is widely distributed to all applicants, students, parents, employees/faculty, applicants for admission and employment, and other relevant person including, but not limited to, its website, its admissions pages, any announcement, bulletin, catalog, or application form that the University makes available.

Reporting Requirements

By June 1, 2015, the University will provide OCR with a copy of its revised Title IX Policy and Grievance Procedures and its revised Nondiscrimination Notice. Within 60 days of OCR's notice to the University of its approval of the revised Title IX Policy and Grievance Procedures and Nondiscrimination Notice, the University will provide documentation to OCR that it has adopted and implemented the Policy and Procedures and Nondiscrimination Notice, incorporated them into its Student Handbook, Employee Handbook, Student Employee Handbook, Faculty Handbook, Student Employment Supervisor Handbook, and any training/orientation materials provided to Resident Assistants or any other Residence Hall staff, and provided them to all students, faculty and employees, and posted it on its public website in accordance with the provisions of Items I and II of this Agreement.

III. Title IX Coordinator

Ensure that the Title IX Coordinator(s) or designee(s):

- A. Coordinates with any designees and appropriate student services on campus (e.g., Housing, Student Development, Lang Health Services, Human Resources, and Campus Safety). These coordination efforts are aimed at examining trends, assessing the climate on campus, and facilitating the implementation and efficacy of interim steps to provide for the safety of the complainants, and the campus community during the investigation. The Title IX Coordinator facilitates communication among these components of campus life, in order to identify and address any patterns or systemic problems under Title IX and to assess and improve the overall efficacy of the coordination of information and responsibilities among these various offices as it relates to the University's Title IX response.
- B. Provides information to students and faculty/employees regarding their Title IX rights and responsibilities, including information about the resources available on and off campus, the University's formal and informal complaint processes, the availability of interim steps, and the complainant's ability to file a complaint with the University's Title IX Grievance Process and/or to pursue criminal charges with local law enforcement.
- C. Coordinates the University's response to the individuals' concerns and follows up with these individuals to solicit feedback on the efficacy of the entire process.
- D. Oversees the implementation of appropriate interim steps to provide for the safety of the complainant(s) and the campus community during an investigation, regardless of whether a formal or informal complaint has been filed with the University.
- E. Coordinates the University's response to individual cases with the appropriate offices on campus.
- F. Follows-up with these individuals and the offices involved to solicit feedback on the efficacy of the interim steps.
- G. Assesses and addresses any known or apparent conflict of interest in the roles and responsibilities of the members of its Title IX team.
- H. Assesses and addresses any known or apparent conflict of interest that may arise from interpersonal relationships between members of the Title IX team and parties to a Title IX grievance.
- I. At the end of every academic term, review all formal and informal Title IX complaints and reports brought to the Title IX Coordinator(s) and designees, processed under its Title IX Policy and Grievance Procedures, and/or independently investigated by the University, to identify and address any patterns or systemic problems under Title IX.

Reporting Requirements

By June 1, 2015, and by the same date annually for the duration of the monitoring period, the University will provide a report to OCR showing that the Title IX Coordinator(s) is carrying out

his/her Title IX responsibilities, as set forth above, including, but not limited to, completing the reviews of the Title IX program. This report will include any trends or patterns identified, and any actions taken in response to trends or patterns identified. The report will also include a summary of all Title IX related reports and complaints received, the type of complaint (sex or gender discrimination, sexual harassment, sexual violence, pregnancy discrimination, discrimination in athletics programs, etc.), and the outcome of the complaints (such as, referred to discipline, accused found responsible for a violation, accused found not responsible for a violation).

IV. Training

- A. Following its implementation of the revised Title IX Policy and Grievance Procedures covered in I above, and by September 1, 2015, the University will provide Title IX training for its Title IX Coordinator(s), Title IX Investigators, and any other faculty, staff or students who will be involved in processing, investigating, adjudicating and/or resolving complaints of sex discrimination or who will otherwise coordinate the University's compliance with Title IX, including but not limited to judicial hearing board members. The training will cover, at minimum:
1. The University's obligations regarding the investigation of Title IX complaints filed by students, staff, and faculty;
 2. OCR Guidance (2010, 2011 and 2013 Dear Colleague Letters);
 3. The University's revised Title IX Policy and Grievance Procedures;
 4. The roles and responsibilities of the Title IX Coordinator(s);
 5. Title IX's prohibitions against retaliation;
 6. Applicable confidentiality requirements under federal and state laws;
 7. Avoiding and addressing real or perceived conflict of interests;
 8. Instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations for those charged with investigative duties; and
 9. Instruction on how to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings.
- B. Following its development and implementation of the checklist covered in V.2 below, the University will provide the checklist to Title IX Coordinator(s) and anyone designated responsible for Title IX complaint investigations so that they can make their best efforts to include in their written reports of complaint investigations the information identified on the checklist.

- C. Provide effective Title IX training to the Title IX Coordinator(s) on a continuing annual basis.
- D. Following its implementation of the revised Title IX Policy and Grievance Procedures covered in I above and by September 1, 2015, the University will schedule training for all administrators, professors, instructors, residential staff and advisors, coaches, and other staff who interact with students on a regular basis. The training will be provided on an annual basis and will provide essential guidance and instruction on:
 - 1. Recognizing, appropriately addressing and reporting allegations and complaints of sex discrimination, including the differences between sex discrimination, sexual harassment, sexual misconduct (e.g., sexual assault, stalking, domestic and/or relationship or other sexual violence);
 - 2. The University's responsibilities under Title IX to address allegations of sexual misconduct, including the availability of interim steps and confidentiality and Title IX's prohibition against retaliation;
 - 3. The University's Title IX Policy and Grievance Procedures;
 - 4. Information about the Title IX Coordinator(s); and
 - 5. Resources available to students and employees (including complainants and respondents) impacted by Title IX issues.
- E. By September 1, 2015, the University will develop a Title IX training program for new employees who interact with students on a regular basis that addresses the training information covered in IV.D above. This training shall be provided to all such new staff within 90 days of being hired for any such position.
- F. By September 1, 2015, and continuing one time a year thereafter, the University will provide an informational sessions for all students and additional training for student employees, so that they are aware of the University's prohibition against sexual misconduct; can recognize sexual misconduct when it occurs; and understand how and to whom to report sexual misconduct. In addition, the sessions will cover a general overview of Title IX, Title IX's prohibitions against retaliation the University's Title IX Grievance Procedures for Title IX complaints, the resources available to students who believe they have been subjected to sexual misconduct (including access to counseling and interim remedies), and the existence of OCR and its authority to enforce Title IX.
- G. By September 1, 2015, and continuing annually thereafter, the University will provide training for its resident advisors and counseling center staff to include training on recognizing, appropriately addressing and reporting allegations of sexual misconduct; the University's Title IX obligations and its Title IX grievance procedures; and interim steps available for complainants and Title IX's prohibitions against retaliation.

- H. In addition to any training(s) designated above, the University shall re-train the personnel designated in this Section IV.D following any significant changes to the University's Title IX Policies and Grievance Procedures.

Reporting Requirements

By September 1, 2015, and by the same date annually for the duration of the monitoring period, the University will provide a report to OCR that includes documentation of the trainings designed for and provided to the audiences set out above, including dates and times of trainings, attendees, trainer bios, speakers and training material. By these same dates, the University will provide documentation of its materials for informational sessions to be held annually during student orientation, including a description of audiences, speakers, and related materials.

V. Documentation

1. The University agrees to collect the following information, if applicable, and to include documentation of such for all Title IX reports and the corresponding case files:
 - a. The names and sex or gender of alleged complainant(s) and respondent(s), and, if different, the name of the person reporting the allegation;
 - b. A statement of the allegation(s), a description of incident(s), and the date(s) and time(s) (if known) of alleged incident(s);
 - c. The date that complaint or other report was made;
 - d. The date the complainant was interviewed and detailed notes of that interview. If the complainant was not interviewed, an explanation for this;
 - e. The date the respondent was interviewed and detailed notes of that interview. If the respondent was not interviewed, an explanation for this;
 - f. The names of all persons alleged to have committed alleged sexual misconduct;
 - g. If applicable, the names of all known witnesses to alleged incident(s), the date(s) each witness was interviewed, and detailed notes from each interview. If any witness was not interviewed, an explanation for this;
 - h. The dates that any relevant documentary evidence was obtained (including medical, cell phone, social media, and other records as appropriate) and a copy of that evidence;
 - i. If applicable, any written statements of the complainant (or subject of sex discrimination and/or misconduct, if different from complainant) and any written statements of the respondent;

- j. If applicable, the date on which the University temporarily suspended fact-finding while a law enforcement agency was in the process of gathering evidence, and the date on which the University resumed its own investigation process;
 - k. The outcome of the investigation and the outcome of the grievance proceedings. If no resolution was reached, and or no grievance proceedings were held, the reason(s) for this should be documented;
 - l. The response of the University or campus personnel, including any interim/permanent steps taken with respect to the complainant and respondent;
 - m. The dates of any communication between the University and the parties involved and copies (if written) or summaries (if oral) of that communication; and
 - n. A narrative of all action taken to prevent recurrence of any harassing incident(s), including any related written documents.
2. The University agrees to create a checklist that includes all the items described in V.1 above and complete and maintain the checklist for each Title IX complaint case file.

Reporting Requirements

By June 1 annually, for the duration of the monitoring period, the University will submit to OCR a copy of the completed checklist for all Title IX complaints, and a copy of the audio-recording for all grievance hearings.

The University agrees to provide access to its case files during OCR's monitoring of this matter to confirm, among other obligations enumerated in this Agreement, that the information above is being maintained as appropriate, and specifically that the University is continuing to maintain detailed records of each informal and formal complaint, including individuals involved, investigative steps taken, documentation received, individuals interviewed, decisions reached, and reason(s) for decision(s) reached. The University will provide OCR documentation of complaints, including their investigations and outcomes, as requested.

VI. Remedies for Student A

- A. The University and Student A have represented to OCR that they entered into a separate binding resolution agreement.
- B. The University has represented that Employee A no longer works for the University and that there will be no contact between Employee A and Student A. The University will provide Student A with a specific contact person should she come in contact with Employee A at the University or at University sponsored events or experience any other incidents of possible sexual harassment or retaliation, and take prompt and appropriate action if any such contact or harassment has occurred.

Reporting Requirements

By June 1, 2015, the University will submit to OCR the name of the specific contact person for Student A.

VII. Other University-Wide Remedies

To assess the campus climate in relation to Title IX by:

- A. Requesting and encouraging feedback from students on the Title IX Coordinator(s) and the handling of Title IX complaints on a semi-annual basis. The University will publicize the manner in which this feedback can be given. Any student giving feedback, either requested or volunteered, should be given the option and ability to provide feedback anonymously; and
- B. Conduct annual climate surveys and analyzing them for patterns or systemic problems under Title IX. The University will use this information to assess and improve the overall handling of Title IX complaints.

Reporting Requirements

By November 1, 2015 and by the same date annually during the monitoring period, the University will provide:

- 1. A copy of all feedback received about the Title IX Coordinator(s) and the Title IX reporting process, including information about how the information was solicited and what method(s) for providing feedback were offered; and
- 2. Documentation of its climate check efforts (including the systems used for collecting the information, analysis of the data collected and steps taken and planned to be taken to improve the effectiveness of its efforts to address sexual misconduct) for the academic year until the conclusion of the monitoring period associated with this Agreement.

VIII. Complaint Reviews

By June 1, 2015, the University will review all complaints of sex discrimination filed by students through the formal sexual misconduct adjudication process during academic years 2012-2013, 2013-2014 and 2014-2015. These reviews will carefully scrutinize whether the University investigated all complaints or reports of sex discrimination promptly and adequately; used the appropriate definitions of sexual harassment under Title IX and applied the appropriate legal standard (preponderance of the evidence); provided interim relief to protect the complainant during the pendency of the investigation; provided notice of the outcome of the complaint investigation to the alleged victim and the alleged harasser; prevented any real or perceived conflicts of interest; took steps to prevent the recurrence of harassment and to address any hostile environment created by the harassment. Following its review, the University will take action as appropriate to address any concerns identified in the manner in which these complaints were

handled; including providing appropriate remedies that may still be available for the parties in these cases, such as referrals to counseling or academic adjustments.

Reporting Requirement

By November 1, 2015, the University will provide OCR with a report on the University's review of all complaints of sex discrimination filed by students during academic years 2012-2013, 2013-2014 and 2014-2015, indicating any concerns identified in any cases as well as action taken to address the concerns. The University will provide access to the underlying case files and supporting materials as requested by OCR.

IX. Monitoring

The University understands that OCR will not close the monitoring of this agreement until such time that OCR determines that the University has fulfilled its terms of the agreement and is in compliance with 34 C.F.R. §§ 106.8(a) and 106.31(a) and (b), which were at issue in this case.

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, if necessary, 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 the regulations implementing Title IX 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 (34 C.F.R. §§ 100.9 and 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.

President, Rockford University