

Carthage College Resolution Agreement
Case Nos. 05-15-2053 & 05-15-2086

Carthage College (College) submits the following Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR) to resolve case numbers 05-15-2053 and 05-15-2086¹. The College 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 September 1, 2015, the College will issue a statement to all College students and employees of the College's policy that it does not tolerate harassment on the basis of sex, which will be widely published, including by posting on the College's website, student handbook, and posting in all College building(s) and any other means of notification the College 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 and may include examples of sexual harassment and sex-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 College Title IX Coordinator and note the College'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. 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 College will submit to OCR documentation that the statement referenced in this item has been published, including copies of emails, relevant pages of the College's website, and documentation of the postings in the building(s).

REVIEW OF POLICIES AND PROCEDURES

¹ OCR's determination regarding the retaliation allegation raised in 05-15-2086 will be addressed in separate correspondence.

2) By August 1, 2015, the College 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 College 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 College will ensure that these policies and procedures include, at a minimum, the following:

- a) a statement setting forth the College's commitment to having a College environment free from all forms of sexual harassment, explaining that the College prohibits sexual harassment occurring in or, if initially occurring off College grounds or outside a College education program or activity, affecting the College environment, encouraging students to immediately report incidents of harassment, emphasizing that staff are required to promptly report incidences of sexual harassment to the Title IX Coordinator, and specifying that the College 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 College's Title IX Coordinator 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 College 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 College'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 College will keep the complaint and investigation confidential to the extent possible;

- g) an assurance that the College will not require a student who complains of harassment to work out the problem directly with the alleged harasser, 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 College 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 College 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 College's complaint procedures, or to pursue both processes simultaneously and that even if a criminal investigation is ongoing, the College 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 College school document all reports of incidents of sexual harassment, and that the College establish a protocol for recordkeeping of such incidents;
- m) a statement that the College will take appropriate disciplinary action against students and staff who violate the College 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 College's primary concern is student safety and, to encourage reports of sexual harassment or sexual violence, that the College will not discipline a student who makes a good faith report of sexual harassment;
- p) a statement that the College 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 College will take to conduct adequate, reliable and impartial investigations of reported incidents, an assurance that the College will take action to stop the harassment, remedy the harassment, and prevent recurrence, and the College's standards for determining whether a hostile environment exists.

REPORTING REQUIREMENT: By August 15, 2015, the College will submit to OCR for its review and approval its revised policies and procedures referenced in Item #2 of the Agreement.

- 3) Within 30 calendar days of receipt of notice of OCR's approval of the policies and procedures referenced in Item #2, the College will adopt, implement and publish the revised policies and procedures. Publication will include written notice of the anti-harassment policy, including its formal and informal complaint procedures, to the College community, including students, administrators and staff. The College will make this notification available through the College's website, revised student handbooks, and any other additional means of notification the College deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT: Within 30 days after the completion of Item #3, the College will provide OCR with documentation that it has completed this item, including copies of the written notices to students, administrators 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 College.

TRAINING OF COLLEGE PERSONNEL

- 4) By January 1, 2016, and annually thereafter the College 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 College 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 College policies and procedures referenced in Item #2 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 College will continue to provide the training described in Item #4 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 College personnel who are likely to receive confidential reports of sexual harassment; and any hearing officers handling cases involving sexual harassment or misconduct annually and within 90 days of any significant changes to the College's Title IX policies or procedures.

- b) Between 60 and 90 days from the date of this training, the College will conduct written 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 College's policies and procedures, and its investigations of cases involving sexual harassment or sexual violence.

REPORTING REQUIREMENT: By January 15, 2016, the College will provide OCR with documentation that it has provided appropriate College 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 College staff who attended the training. By March 31, 2016, the College will provide OCR with documentation demonstrating its compliance with Item #4(b), above.

- 5) By January 15, 2016, the College will require all administrators, 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 #3. At a minimum the training will encompass the following:
 - a) A reminder of the College'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 College's harassment policies and procedures on the College's website, and the existence of OCR and its authority to enforce Title IX.
 - c) An explanation of the College'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 College's harassment policies and procedures, including the College'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 College will provide effective training described in Items #4 and 5 to any administrators, faculty, staff or responsible employees identified in Items #4 and 5 who are hired after January 15, 2016, within 90 days of the new employee's date of hire.

REPORTING REQUIREMENT: By January 31, 2016, the College 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 College employees who successfully completed the training.

STUDENT ORIENTATION & TRAINING

- 1) Within 30 days of OCR's approval of Item #2, the College will review and revise its existing freshman orientation programs and materials (including information that is sent to students after acceptance of their offer of admission to the College) to include information specifically targeted to effectively raise awareness among its student population of Title IX and what it prohibits and the rights it confers on students; the College's prohibition against all forms of sex discrimination prohibited by Title IX, including sexual harassment, including how to recognize sex discrimination and sexual harassment when it occurs; how and with whom to report any incidents of sex discrimination (including sexual harassment); who to speak with if they are concerned about issues of sexual harassment; and the identity and role of the Title IX Coordinator with regard to ensuring the College's compliance with Title IX, including investigating complaints of sex discrimination, including sexual harassment, and his/her contact information. In addition, the orientation sessions will cover the College's updated grievance procedures for Title IX complaints. OCR will review and approve the training materials to ensure they cover the items outlined above.
- 2) By August 1, 2016, the College will develop effective training for returning students to include a series of required informational session(s) to ensure that students are aware of Title IX and what it prohibits and the rights it confers on students; the College's prohibition against sex discrimination (including sexual harassment); how to recognize such sex discrimination and sexual harassment when it occurs; how and with whom to report any incidents of sex discrimination (including sexual harassment), which would include increasing their awareness of the identity and role of the College's Title IX Coordinator and delegates, and contact information. The training sessions will cover the College's updated grievance procedures for Title IX complaints. OCR will review and approve the training materials to ensure they cover the items outlined above.

REPORTING REQUIREMENT: By September 15, 2016, and September 15, 2017, the College will provide OCR with documentation that it has implemented this item, including copies of the orientation schedule, 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.

REMEDIES SPECIFIC TO THE COMPLAINANT

- 6) By July 31, 2015, the College will complete an impartial investigation to determine whether complainants 1 and 2 were subjected to a hostile environment based on sex during the 2014-2015 academic year. If the College determines that sexual harassment of Complainant 1 and/or 2 did not occur, then it will provide Complainant 1 and 2 written notice of its determinations and provide them the opportunity to appeal the determination(s). If the College determines that sexual harassment of Complainant 1 and/or 2 did occur, then the

College will provide a written determination to each Complainant. In addition, the College will meet individually with Complainant 1 and/or 2 to assess whether the complainant requires any remedial actions as a result of the harassment. The remedial actions may include counseling, reimbursement for out-of-pocket costs for previously received private counseling (if any), or other appropriate remedial actions.

REPORTING REQUIREMENT: By August 15, 2015, the College will provide documentation to OCR that it has completed the investigation required by this item, including a description of the actions taken and the reasons why. The College will also provide for OCR's review and approval any remedial actions the College proposes to take in response to the investigation findings. Following OCR's approval, the College will provide an update to OCR of all remedial actions taken under timeframes established by OCR in its approval.

MAINTENANCE OF DATA

- 7) Effective immediately, the College 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) a narrative of all actions taken in response to the reports by College personnel, including any written documentation;
 - c) a copy of any and all disciplinary sanctions issued to students or employees for violations of the sexual harassment policies and procedures;
 - d) 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;
 - e) a narrative of all action taken to prevent recurrence of any harassing incident(s), including any written documentation; and
 - f) any audio or video recordings of student conduct hearings in cases involving sexual harassment.

REPORTING REQUIREMENT: By July 15, 2016, and July 15, 2017, the College will provide to OCR copies of the documentation referenced in this item for the just-completed academic year.

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, the OCR may visit the College, interview staff and students, and request such

additional reports or data as are necessary for the 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 complaint.

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

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

Approved and agreed to on behalf of Carthage College.

For Carthage College

Date