

Elgin Community College Resolution Agreement
OCR Case #05-15-2426

Elgin Community College (College) submits the following Resolution Agreement (Agreement) to the U.S. Department of Education (Department), Office for Civil Rights (OCR) to resolve OCR Case #05-15-2426. The College submits this Agreement to ensure its compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities; Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d – 2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color or national origin by recipients of Federal financial assistance; and 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 prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

NONDISCRIMINATION NOTICE

1. By February 29, 2016, the College will provide to OCR for review and approval a revised notice of non-discrimination. The notice will inform applicants for admission and employment, students and parents, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the College that the College does not discriminate on the basis of disability, race, color, national origin or sex in the educational program or activity which it operates, and that it is required by these statutes not to discriminate in such a manner. The notice will also include the name or title, office address, telephone number and email address of the College's Title IX and Section 504 Coordinator(s) and that any questions regarding Title IX or Section 504 may be referred to the respective Coordinator(s) or to OCR.

Within 30 days of OCR's approval of the notice, the College will ensure the revised notice is widely distributed, including posting the notice on its website. Thereafter, the College will include the revised notice in all relevant publications provided to applicants for admission and employment, students and parents, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the College.

REPORTING REQUIREMENT: Within 45 days of OCR's approval of the notice, the College will submit documentation to OCR that the revised notice referenced has been published on the College's website. By August 31, 2016, the College will provide to OCR samples of publications to demonstrate that it has notified applicants for admission and employment, students and parents, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the College that the College does not discriminate on the basis of disability, race, color, national origin or sex in the educational program or activity which it operates.

REVIEW OF POLICIES AND PROCEDURES

2. By February 29, 2016, the College will review and revise, as necessary, its written policies and procedures relating to race, disability and/or sex discrimination, including harassment. The revised policies will provide notice to students and employees of the procedures, including where complaints can be filed, that is easily understood, easily located, and widely distributed. The College also will review and revise its grievance procedures providing for prompt and equitable resolution of student complaints alleging any action which would be prohibited by Section 504, Title II, and Title IX to ensure that they adequately address and provide for a prompt and appropriate response to incidents of race, disability and/or sex discrimination.

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 school environment free from all harassment on the basis of race, color, national origin, sex or disability. Such statement must explain that the College prohibits race, color, national origin, sex or disability harassment in the college environment, including all programs and activities. The statement will encourage students to report immediately incidents of harassment. The statement will emphasize that staff are required to report promptly incidents of harassment that they witness or that are brought to their attention by responsible employees. The statement will specify that the College will investigate formal and informal complaints of harassment and will document such investigations.
- b) examples of the type of conduct and behavior that is covered by the policies and procedures, 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 harassment and/or file a complaint (formally or informally) including the name, office address, phone number, and email address for the College's Title IX or Section 504 Coordinator(s) and notice of a student's right to file and pursue a concurrent criminal complaint, as appropriate;
- 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 harassment;
- 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 as opposed to a fact-finding investigation process), a requirement that both parties will be given equal opportunity to access and present evidence to the extent allowed under FERPA, 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 harassment occurred);
- i) specific information as to the name or title and contact information (including office and email addresses and telephone number) for the College employee(s) responsible for receiving the complaint form and/or investigating reports of sexual harassment and for receiving complaints concerning disability and race 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 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 investigation and will not wait for the conclusion or a criminal investigation or proceeding to begin its investigation;
- k) a requirement that all employees who observe acts of harassment intervene to stop the harassment, unless circumstances would make such intervention dangerous, and document and report all such incidents to the designated Coordinator(s);
- l) a requirement that designated employee(s) at each College document all reports of incidents of 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 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;

- o) an assurance that the College's primary concern is student safety and a statement that the use of alcohol or drugs never makes a victim at fault for sexual violence. To encourage students to make good faith reports of harassment, an assurance that the College will not discipline a student who makes a good faith report of harassment for any personal consumption of alcohol or drugs at or near the time of the alleged incident, even if the consumption violates the Student Code of Conduct, unless the violation endangers the health or well-being of any other individual, and that to the extent necessary, such a violation will be addressed separately from the harassment violation.
- p) a statement that the College will, where appropriate, take reasonable steps to remedy the harm to the affected student(s) of the 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 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 February 29, 2016, 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 updated policies, 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 #2, 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. Within 60 calendar days of receipt of notice of OCR's approval of the policies and

procedures referenced in Item #2, 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 race, disability, and sexual harassment or misconduct; any counselors or other College personnel who are likely to receive confidential reports of discrimination or harassment; and any hearing officers handling cases involving race, disability, and sex discrimination or harassment. 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 investigations, including the appropriate legal standards to apply in such investigations. If the date by which the training referenced in this Item #4 must be completed falls during the time period from the end of the spring semester of any academic year through the end of the summer session of that same academic year, the College will provide this training within 45 calendar days of the beginning of the next fall semester.

- 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 race, disability, and sex discrimination or harassment; any counselors or other College personnel who are likely to receive confidential reports of discrimination or harassment; and any hearing officers handling cases involving discrimination or harassment annually and within 90 days of any significant changes to the College's policies or procedures.
- b) Between 60 and 90 days from the date of the training described in Item #4, 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 race, disability, and sex discrimination or harassment.

REPORTING REQUIREMENT: Within 30 calendar days of the date of the training referenced in Item #4, 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. Within 30 calendar days of receiving the results of the survey referenced in Item #4(b) above, the College will provide OCR with documentation demonstrating its compliance with Item #4(b), above.

5. Within 60 calendar days of receipt of notice of OCR's approval of the policies and procedures referenced in Item #2, the College will require all administrators, faculty, and staff to complete effective training relating to the policies and procedures adopted pursuant to Item #2. The training will specifically address the responsibility of staff to report incidents of possible harassment based on race, sex or disability, and the procedures for doing so, and provide instruction on how to recognize, prevent and respond appropriately to such harassment, including the need to discipline students found to have engaged in prohibited harassment. If the date by which the training referenced in this Item #5 must be completed falls during the time period from the end of the spring semester of any academic

year through the end of the summer session of that same academic year, the College will provide this training within 45 calendar days of the beginning of the next fall semester. At a minimum the training will encompass the following:

- a) A reminder of the College's commitment to having an environment free from discrimination, and an explanation of what they should do if they believe students have been subjected to discrimination or harassment, including their duty to immediately report all allegations of possible harassment, and of the potential for discipline of employees who fail to report harassment.
 - b) A general overview of Section 504, Title II, Title VI, and 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 discrimination or harassment, where to locate the College's anti-discrimination and harassment policies and procedures on the College's website and in print, and the existence of OCR and its authority to enforce Section 504, Title II, Title VI, and Title IX.
 - c) An explanation of the College's Section 504, Title II, Title VI, and Title IX policies and procedures, including an explanation of what constitutes discrimination and harassment, the role of the 504 Coordinator and Title IX Coordinator, as well as disciplinary sanctions related to findings of violations of the College's discrimination and harassment policies and procedures, including the College's policy prohibiting retaliation and intimidation.
 - d) An explanation of the prohibition against retaliation contained in Section 504, Title II, Title VI, and Title IX, and examples of conduct that may constitute retaliation.
 - e) The College will provide effective training described in Items #3 and #4 to any administrators, faculty, staff or responsible employees identified in Items #3 and #4 who are hired after July 1, 2016, within 90 days of the new employee's date of hire.
6. By March 1, 2016, the College will require the ADA/504 Coordinator and other staff members responsible for ensuring the College's compliance with Section 504 and Title II receive training on the requirements of Section 504 and Title II, how to ensure students with approved academic adjustments receive their academic adjustments, as well as appropriate reasons for College faculty and staff to deny a student's approved academic adjustment.
 7. By March 1, 2016, the College will require Professor A to receive training on the requirements of Section 504 and Title II, accommodating students with disabilities, and disability and racial harassment.

REPORTING REQUIREMENT: Within 30 days of providing the training referenced in Items ##5-7, the College will provide OCR with documentation that it has provided the training referenced in Items ##5-7, 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

8. Within 60 days of OCR's approval of Item #2, the College will review, revise, and submit to OCR 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 inform students that the College does not discriminate, and explain to students what they should do if they believe they or other students have been subjected to discrimination or harassment. OCR will review and approve the materials to ensure they cover the items outlined.
9. Within 30 days of the start of each fall semester, beginning with the 2016 fall semester, the College will provide effective training during new student orientation regarding the College's prohibition against all forms of discrimination, including harassment under Section 504, Title II, Title VI, and Title IX. OCR will review and approve the training materials to ensure they cover the items outlined. This training will include:
 - a) A review of the College's anti-discrimination and harassment policies and procedures, including how to recognize race, disability, and sex discrimination, including harassment when it occurs;
 - b) How to report any incidents of each type of discrimination (e.g., failure to receive academic adjustments, sexual harassment, etc.);
 - c) Who a student may speak with if s/he is concerned about issues of race, disability or sex discrimination, or harassment;
 - d) The name or title, contact information, 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.
 - e) The name or title, contact information and role of the Section 504 Coordinator with regard to ensuring the College's compliance with Section 504 and Title II, including investigating complaints of disability discrimination (which includes those related to academic adjustments).
 - f) A review of the College's updated grievance procedures for discrimination complaints.
 - g) Information regarding the prohibition of retaliation for filing complaints.
 - h) Information regarding interim measures that may be available to individuals who experience harassment/misconduct.
10. Within 60 days of OCR's approval of Item #2, the College will develop effective training for current and returning students to include a series of required informational session(s) to

ensure that students are aware of the College's updated grievance procedures. This training will include information described in #9. OCR will review and approve the training materials to ensure they cover the items outlined.

11. Within 60 days of OCR's approval of the training materials referenced in #10, the College will provide the approved training to the students.

REPORTING REQUIREMENT: By October 31, 2016 and October 31, 2017, the College will provide OCR with documentation that it has implemented #9, 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. Within 60 days of OCR's approval of the training materials referenced in #10, the College will provide OCR with documentation that it has implemented #11, 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

12. By December 15, 2015, the College will reimburse the Complainant for any expenses incurred related to her XXXX course, including tuition, books, lab fees and any other costs associated with this course, to the extent that the Complainant is out-of-pocket for any such expenses.
13. By December 15, 2015, the College will annotate the Complainant's transcript to address any negative implications for the Complainant's withdrawal from the XXXX course, if there are any such negative implications.
14. By December 15, 2015, the College will assess whether any other services, such as counseling, are appropriate and should be offered to the Complainant to remedy the alleged race and disability discrimination related to her XXXX course.
15. The College will ensure that a timely, impartial investigation into the Complainant's allegation of sexual harassment is conducted by a qualified individual(s) that is approved by OCR. Prior to beginning the investigation, and no later than January 15, 2016, the College will provide OCR with the name and qualifications of any individual(s) selected to re-investigate the Complainant's allegation of sexual harassment, including the relevant training the individual has received pertaining to investigating complaints of sexual harassment. Within 60 days of the OCR's approval of the individual(s) selected to conduct the investigation, the College will complete the investigation. The College will assess whether any other services or interim measures are appropriate and should be offered to the Complainant during the investigation. The College will ensure that written findings of the investigation's outcome are issued to the Complainant. If the investigation results in a finding that sexual harassment did occur, the College will assess whether the Complainant requires any remedial actions to remedy the sexual harassment.

REPORTING REQUIREMENT: By January 15, 2016, the College will provide documentation verifying the Complainant has been reimbursed for any expenses incurred related to her XXXX course and that the College has addressed any negative implications for the Complainant because of her withdrawal from the XXXX course. By January 15, 2016, the College will provide OCR with a written explanation of any additional services the College offered to the Complainant to remediate the effects of the alleged discrimination in her XXXX course, and if no additional services are offered, the College will provide an explanation as to why not. By January 15, 2016, the College will provide OCR with the name and qualifications of any person or persons selected to re-investigate the Complainant's allegation of sexual harassment. Within 60 days of OCR's approval of the individual(s) selected, the College will complete the investigation. By April 30, 2016, 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 also will provide for OCR's review and approval any remedial actions the College proposes to take in response to the investigation findings.

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, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, Section 504 and Title IX at 34 C.F.R. §§ 100, 104 and 106, respectively, and Title II at 28 C.F.R. § 35, which were at issue in this case.

The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title VI, Section 504, Title IX, and Title II, which were at issue in this case.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of Elgin Community College, Elgin, Illinois.

/s/ _____
Name and Title

12/03/2015 _____
Date