

Resolution Agreement
American Academy of Acupuncture and Oriental Medicine
Case No. 05-18-2211

The American Academy of Acupuncture and Oriental Medicine (Academy) enters into this Resolution Agreement with the U.S. Department of Education, Office for Civil Rights (OCR), to resolve OCR Case No. 05-18-2211. The Academy assures the OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and Title IX's implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination based upon sex in any education program or activity operated by a recipient of Federal financial assistance from the Department of Education.

Nondiscrimination Notice

1. By March 18, 2019, the Academy will provide to OCR for review and approval a revised notice to all Academy students, administrators, staff, applicants for employment, and sources of referral of applicants for employment with the Academy stating that the Academy does not discriminate on the basis of sex in its educational programs or activities or tolerate harassment of students based on sex. The notice will include a statement that the Academy is required by Title IX not to discriminate in such a manner. The notice will include the name or title, office address, telephone number, and email address of the Title IX Coordinator and state that any questions regarding Title IX may be referred to the Academy's Title IX Coordinator or to OCR, with appropriate contact information. Upon approval by OCR, the Academy will widely distribute the revised notice, including sending it by email to Academy students, administrators, and staff, publishing it in the Academy's printed materials, posting it in prominent locations throughout the Academy, and publishing it on the Academy's website.

REPORTING REQUIREMENTS: By March 18, 2019, the Academy will provide OCR with the proposed Nondiscrimination Notice for review and approval.

Within 30 calendar days of receipt of notice of OCR's approval, the Academy will submit to OCR documentation that the notice referenced in this item has been widely published, including a copy of the email sent to all students, administrators and staff, relevant pages of the Academy's website and other printed materials, and documentation of the postings at the Academy.

Title IX Coordinator

2. By March 18, 2019, the Academy will ensure that its Title IX Coordinator has sufficient qualifications and resources to fulfill all obligations specified in this Agreement, including ensuring the Title IX Coordinator receives appropriate training needed to carry out his or her duties and responsibilities. Specifically, the Academy will ensure that the Title IX Coordinator:
 - a) Has knowledge of: the substantive requirements of Title IX and its implementing regulations applicable to postsecondary education institutions, the Academy's Title

- IX grievance procedure(s), what conduct constitutes sexual harassment, and how to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence, and take into account the unique and complex circumstances of each case under Title IX;
- b) Oversees the Academy's prompt and equitable response to disclosures, verbal reports, and written complaints of discrimination under Title IX;
 - c) Does not have other job responsibilities that create a conflict of interest with regard to his/her duties and responsibilities under Title IX;
 - d) Implements the Academy's policies, procedures and practices prohibiting all forms of sexual harassment and assesses the overall efficacy of prevention, coordination, and response to sexual harassment by the Academy;
 - e) Oversees the development, provision, and monitoring for effective training provided to:
 - 1) Individuals involved in any stage of the grievance process on the substantive requirements of Title IX and how to investigate complaints and review appeals under Title IX; and
 - 2) Members of the Academy community (i.e., staff, faculty, etc.) regarding their Title IX rights and responsibilities.
 - f) Identifies and addresses patterns or systemic problems under Title IX;
 - g) Ensures that all individuals who report incidents of possible sexual harassment are advised of:
 - 1) The timeframes for the Title IX investigation;
 - 2) The availability of appropriate, individualized services (including interim measures, as appropriate); and
 - 3) The prohibition of retaliation for persons who report sexual harassment, file a complaint, or otherwise participate in an investigation.

REPORTING REQUIREMENT: By March 18, 2019, the Academy will submit to OCR the name and credentials of the Title IX Coordinator, including a description of the training that individual has received to carry out his or her duties and responsibilities under Title IX and this item.

Review and Revision of Title IX Policies, Procedures, and Practices

- 3. By April 15, 2019, the Academy will review and revise, as necessary, the Academy's written Title IX grievance procedures to ensure they are clear and consistent, and adequately provide for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by Title IX. At a minimum, the Academy will ensure that its policies, procedures, and practices provide the following:
 - a) A statement that the Academy is committed to having an education environment free from all forms of harassment based on sex, encourages students to immediately report incidents of harassment to Academy staff, and requires staff to promptly report incidents of harassment to the Title IX Coordinator;
 - b) A statement that the Academy will ensure an impartial decision-maker investigates complaints of harassment;

- c) A definition of harassment based on sex, including examples of conduct that constitutes harassment based on sex;
- d) A statement that the procedures apply to complaints alleging discrimination based on sex carried out by other students, employees or third parties;
- e) An explanation of how to report harassment and/or where to file a complaint, formally or informally (if applicable);
- f) The name or title and contact information (including office address, e-mail address, and telephone number) for the Title IX Coordinator and any Academy employee(s) responsible for receiving complaints and/or investigating reports of harassment based on sex;
- g) A requirement that the designated Academy employee(s) document all reports of incidents of harassment consistent with item #8 below;
- h) A recommendation that Academy staff members who observe acts of harassment based on sex intervene to stop the harassment, unless circumstances would make such intervention dangerous;
- i) A description of the Academy's formal and informal (if applicable) complaint procedures, including:
 - 1) A Complaint Form,
 - 2) Designated timeframes for the Academy's investigation of a complaint and the process for extending deadlines,
 - 3) A description of the various steps the Academy will take to conduct an adequate, reliable, and impartial investigation of reported incidents,
 - 4) The opportunity for both the complainant and the respondent to present witnesses and other evidence,
 - 5) A requirement that written notice of the outcome be provided to the parties;
 - 6) The Academy's standards for determining whether a hostile environment exists, and
 - 7) The availability of appropriate, individualized services (including interim measures such as no-contact orders and counseling services) as appropriate to either or both the reporting and responding parties prior to an investigation or while an investigation is pending;
- j) Prohibition of retaliation against persons who report harassment or participate in related proceedings;
- k) A statement that the Academy will take appropriate disciplinary action against students, staff and third parties who violate the Academy policies prohibiting harassment based on sex, and examples of the range of possible disciplinary sanctions;
- l) A statement that the Academy will offer appropriate services to any person found to have been subjected to or to have engaged in harassment on based on sex;
- m) An assurance that the Academy will take action to stop harassment, prevent its recurrence, and remedy its discriminatory effects on the complainant and others, if appropriate.

REPORTING REQUIREMENT: By April 15, 2019, the Academy will submit to OCR for review and approval its revised policies, procedures and practices referenced in this item.

4. Within 30 calendar days of OCR notifying the Academy that the policies, procedures and practices referenced in item #3 have been approved, the Academy will adopt, publish and implement the revised policies, procedures and practices. Publication will include sending written notice of the revised policies, procedures and practices, to the Academy community. The Academy will make this notification available through the Academy's website, student and employee handbooks, and by any additional means the Academy deems effective to ensure that the information is widely disseminated.

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

Training

5. **Staff Training:** Within 60 calendar days after approval of the policies referenced in item #3, the Academy will provide all Academy employees with effective mandatory, annual training on the requirements of Title IX and the Academy's revised policies, procedures and practices. At a minimum, the training will include:
 - a) A general overview of Title IX, including how the law's nondiscrimination provisions apply to students, the name(s) and contact information for the designated employee(s) to whom students or others may report allegations of harassment, where to locate the Academy's harassment policies and procedures on the Academy's website, and the existence of OCR and its authority to enforce Title IX.
 - b) The Academy's Title IX policies and procedures, including what constitutes sexual harassment, the role of the Title IX Coordinator, the obligation of responsible employees to report sexual harassment to the Title IX Coordinator, and the Academy's responsibilities under Title IX to address such allegations and conduct.
 - c) Disciplinary sanctions for findings of violations of the Academy's harassment policies, including the Academy's policy prohibiting retaliation.

REPORTING REQUIREMENT: Within 30 calendar days after training is conducted, and by September 15, 2019 and September 15, 2020, the Academy will provide OCR with documentation that it has provided the training referenced in this item, including the dates of the training, the name and title of the trainer(s), a copy of any materials used or distributed during the training, and a list of Academy employees who attended the training.

6. **Student Training:** Within 60 calendar days after approval of the policies referenced in item #3, the Academy will ensure implementation of mandatory, annual, Title IX training for all students. At a minimum, the training will include:
 - a) A general overview of Title IX, including the rights that it confers on students and the resources available to students who experience sex discrimination (including sexual harassment) or retaliation, where to locate the Academy's harassment policies and procedures on the Academy's website, and the existence of OCR and its authority to enforce Title IX;

- b) The Academy's policies prohibiting harassment based on sex and retaliation;
- c) The identity, role, and contact information of the Title IX Coordinator;
- d) How and with whom a complaint of harassment based on sex and/or retaliation can be filed;
- e) The Academy's procedures and practices for handling complaints of harassment based on sex;
- f) Students' rights to and the limitations of remaining confidential when reporting harassment based on sex and retaliation.

REPORTING REQUIREMENT: Within 30 calendar days after training is conducted, and by September 15, 2019 and September 15, 2020, the Academy will provide OCR with documentation that it has provided student training referenced in this item, including the date of the training session(s), the name(s) and title(s) of the presenter(s), a copy of any materials used or distributed during the session(s), and an assurance that the training was provided to all applicable Academy students.

7. Title IX Investigator Staff Training: By January 15, 2019, the Academy will ensure that all staff members directly involved in receiving, processing, investigating, and/or resolving complaints of sexual harassment have received sufficient training to perform their duties. Specifically, the Academy will ensure these individuals:
- a) Understand the substantive requirements of Title IX, the Academy's Title IX grievance procedure(s), and how to investigate reports under Title IX;
 - b) Recognize the types of conduct that constitute sexual harassment;
 - c) Recognize and appropriately respond to allegations of sexual harassment and retaliation pursuant to Title IX;
 - d) Provide parties with an equal opportunity to participate in the investigation, including to present evidence and witnesses, and review evidence;
 - e) Understand and properly apply the Academy's standard of proof when making a determination;
 - f) Notify all parties of the initiation and outcome of an investigation;
 - g) Adequately document all steps of the investigation;
 - h) Offer appropriate, individualized services (including interim measures), as appropriate to either or both the reporting and responding parties involved prior to an investigation or while an investigation is pending.

REPORTING REQUIREMENT: Within 30 calendar days after training is conducted, the Academy will provide OCR with documentation that it has provided the Title IX investigator staff training referenced in this item, including the date of the training session(s), the name(s) and title(s) of the presenter(s), a copy of any materials used or distributed during the session(s), and an assurance that the training was provided to all applicable Academy staff.

Record Keeping/Maintenance of Records

8. By March 18, 2019, the Academy will develop a record-keeping system that adequately documents all reports of possible sexual harassment, as well as policy that requires preservation of documentation related to the Academy's responses to and investigations of

reports and complaints of sexual harassment. At a minimum the Academy's record-keeping system should include:

- a) A system for tracking electronically all incidents of sexual harassment or potential sexual harassment that includes relevant information related to the incident, the person reporting the incident, the alleged harasser, the alleged person subject to the harassment, all potential witnesses of the harassment, the date/time/nature/location of the incident, and the date the Academy became aware of the incident;
- b) A copy of all written reports, and a narrative of all verbal reports, of incidents involving allegations that could constitute notice of possible sexual harassment;
- c) A narrative description of all actions taken by Academy staff in response to the report;
- d) A copy of any written documentation sent to or received in relation to the report, including but not limited to interview notes, witness statements, correspondence between the parties, and correspondence between the Academy and the parties;
- e) A copy of all evidence generated as result of the investigation;
- f) A copy of all written determinations or a description of all verbal notifications of determinations provided to the parties, with the date of each notification;
- g) A detailed description of any interim measures offered to complainants and/or respondents pending the completion of an investigation, including the parties response to the interim measures offered;
- h) Where sexual harassment is found to have occurred, documentation fully detailing all the steps, individual and systemic, the Academy took to end the sexual harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects on the complainant and any others, as appropriate.

REPORTING REQUIREMENT: By March 18, 2019, the Academy will provide OCR with a detailed description of its proposed record-keeping system and policy. By July 1, 2019 and July 1, 2020, the Academy will provide OCR a summary in chart form of all reports of sexual harassment the Academy received during the just-completed academic year. The Academy will maintain and preserve all of the underlying documentation and will provide OCR with timely access to any and all documentation upon request.

Individual Remedies

9. By December 17, 2018, the Academy will ensure that a timely, impartial investigation into the Complainant's allegations of sexual harassment is conducted by a qualified individual(s). The Academy will assess whether any other services or interim measures are necessary pending the completion of the investigation. The Academy will ensure both parties are provided an equal opportunity to participate in the investigation (e.g., review evidence and present witnesses) and will make findings as to whether the respondent subjected the Complainant to a hostile environment based on sex. Following its investigation, the Academy will submit its findings with supporting documentation to OCR, and will include any proposed remedial actions for OCR's review and approval; upon OCR's approval, the Academy will send written notification to the parties of the findings and, if warranted, any remedial actions to be taken.

REPORTING REQUIREMENTS: By November 16, 2018, the Academy will provide OCR with the name of the individual(s) selected to investigate the Complainant's allegations and a description of the individual's qualifications including the relevant training the individual(s) have received regarding investigating complaints of sexual harassment, and the Academy will identify what, if any, services or interim measures it offered to either or both parties pending the completion of the investigation.

By December 17, 2018, the Academy will provide OCR a summary of the investigative steps taken, the Academy's findings and supporting documentation, and its proposed remedial actions. Within 30 days of OCR's approval of the proposed remedial actions, the Academy will provide OCR with a copy of the written notice sent to the parties of the outcome of the investigation and the remedial actions to be taken. By January 31, 2019, the Academy will submit documentation to OCR that it has implemented all remedial actions approved by OCR.

IMPLEMENTATION AND ENFORCEMENT OF THIS AGREEMENT

The Academy understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Academy understands that during the monitoring of this Agreement, if necessary, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this Agreement. Upon the Academy's satisfaction of the commitments made under this Agreement, OCR will close the case.

The Academy 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 Academy written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the Academy's representative below:

Academy Administrator

Date