

RESOLUTION AGREEMENT

RUST COLLEGE

OCR Docket Number: 06-12-2139

Rust College (RC) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, RC commits to the following actions to ensure that it has achieved compliance with the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. § 1681, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex.

RC understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further RC understands that during the monitoring of this Agreement, OCR may visit RC, interview staff and students and request such additional reports or data as are necessary for OCR to determine whether RC has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title IX at 34 C.F.R. § 106.31, which were at issue in this compliance review.

RC understands that OCR will not close the monitoring of this Agreement until OCR determines that RC has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX at 34 C.F.R. § 106.31.

RC 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 RC written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

RC assures OCR that it will implement the action items listed below:

ACTION ITEM #1: NON-DISCRIMINATION STATEMENT

1. By October 31, 2013, RC will revise its notice of non-discrimination and all related internal policies and internal guidance documents to state that RC does not discriminate on the basis of sex in its programs or activities and that it is prohibited from discriminating on the basis of sex (*e.g.*, "No person shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Rust College program or activity");

REPORTING REQUIREMENT FOR ACTION ITEM #2

2. By November 25, 2013, RC will provide OCR with copies of RC's revised notice of non-discrimination and any other related revised documents;

3. By November 25, 2013, RC will provide OCR with a summary of the methods by which RC has provided the public (students, visitors, third parties, faculty, staff, employees, etc.) with notice of RC's revised notice of non-discrimination (*e.g.*, inclusion on RC's website homepage, publication in the Student Handbook, posting flyers in the main Administration building, etc.);
4. By December 5, 2013, RC will send the complainant a letter, by certified mail, return receipt requested, which notifies her that RC has revised its notice of non-discrimination and provide a copy of RC's revised notice of non-discrimination with that letter;
5. By December 12, 2013, RC will provide OCR with a copy of the letter sent to the complainant which informs her of RC's revised notice of non-discrimination and provide OCR with a copy of the return receipt for this letter to the complainant;

ACTION ITEM #2: PUBLIC ANTI-HARASSMENT STATEMENT

6. RC will issue an anti-harassment statement to all RC students, parents, and staff which provides that RC does not tolerate acts of harassment, including acts of harassment based on sex. The statement will be posted in prominent locations at RC facilities and published it on RC's website and will also:
 - i. Encourage any student who believes that he or she has been subjected to harassment based on sex to report the harassment to RC;
 - ii. Note RC's commitment to conducting a prompt investigation of all allegations of sex harassment;
 - iii. Include appropriate contact information for RC's Title IX coordinator, to whom students and parents may report allegations of sex-based harassment and other forms of sex discrimination;
 - iv. Warn that students and/or staff found to have engaged in acts of harassment based on sex will be promptly disciplined, with such discipline to include, if circumstances warrant, up to and including suspension or expulsion for students and termination of employment for staff; and,
 - v. Encourage students, parents, and RC staff to work together to prevent acts of harassment of any kind;

REPORTING REQUIREMENT FOR ACTION ITEM #2

7. By December 12, 2013, RC will provide OCR with a copy of the Anti-Harassment Statement and verification that the statement has been posted in prominent locations at RC's facilities and published on RC's website. The verification will include a list of all buildings that posted the statement, the locations where the statement was posted, and the date the statement was posted at each building and on RC's website;

ACTION ITEM #3: SEXUAL HARASSMENT POLICIES AND PROCEDURES

8. RC agrees to take all steps reasonably designed to ensure that students enrolled at RC are not subjected to a hostile environment on the basis of sex and to respond promptly and appropriately to allegations of harassment on the basis of sex. To this end, RC will promptly investigate all incidents of alleged harassment of students that are known or that reasonably should be known to RC and will take appropriate action to respond to complaints, which may include disciplinary action against students and/or staff found to have violated RC policy. RC will take prompt and effective responsive action reasonably designed to end the hostile environment, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on affected students. RC will develop and/or modify its policies and procedures for maintaining records of all complaints it receives regarding sexual harassment;
9. All sexual harassment investigations at RC will be conducted by individuals with knowledge of the appropriate legal standards under Title IX and the relevant RC policies and complaint procedures. The investigator(s) will also be trained in how to recognize and remedy such harassment. RC will develop and/or modify written grievance procedures/investigation guidelines for inclusion in RC's Student Handbook, Code of Conduct and on RC's website. The grievance procedures/investigation guidelines must, at a minimum, include the following requirements:
 - i. Provide for an adequate, reliable, and impartial investigation that includes reasonably prompt timeframes for conducting the investigation;
 - ii. A process for the allegedly harassed student, if the student wishes, to identify the allegedly harassing student(s) and/or witnesses and provide other information in a manner that protects the allegedly harassed student's confidentiality;
 - iii. Interim measures necessary to prevent further harassment of the allegedly targeted student, as well as measures to avoid retaliation against the reporting student, pending the resolution of the complaint;
 - iv. A statement regarding remedial action(s) necessary to address and resolve an incident of harassment, including, as appropriate, provision of resources, including counseling, to the alleged harasser as a means to prevent recurrence of future harassment, discipline, strategies to protect the individual(s) alleged to be harassed and witnesses from retaliation, counseling for the individual(s) alleged to be harassed, witnesses and the broader student body, and any other necessary steps reasonably calculated to prevent future occurrences of harassment;
 - v. Maintaining on-going contact with and providing updates to the individual alleged to be harassed throughout the investigation;
 - vi. Efforts to identify the allegedly harassing student(s) and/or witnesses if the targeted student is unaware of their identities or names (*e.g.*, interviewing other students and/or staff who were present during the incident(s));

- vii. Referral to law enforcement authorities where appropriate;
 - viii. Interviewing all relevant student and staff witnesses, not limited to the accused, and reviewing all relevant documents and physical evidence;
 - ix. Clarification that RC will follow these procedures, regardless of whether the alleged harassment is also being investigated by another agency, including a law enforcement agency, unless certain procedural steps would directly impede a criminal investigation;
 - x. Provide that the preponderance of the evidence standard will be used for investigating allegations of sexual harassment or violence;
 - xi. Assessing whether other students, including witnesses, were negatively impacted by the allegedly harassing behavior, and consideration of whether remedial actions are also appropriate for those students;
 - xii. A final written report describing the steps taken in the investigation and the facts gathered, clearly stating whether or not sexual harassment occurred, and explaining the basis for RC's conclusion, including application of the appropriate legal standard of a preponderance of the evidence;
 - xiii. Written notification to the allegedly targeted student explaining RC's investigative process, its factual findings, its determination as to whether harassment occurred, the reasons for the decision, and the appeal procedures;
 - xiv. Documentation of all investigative steps, including statements provided by the allegedly targeted student(s), and any other witnesses or reporting parties, the evidence reviewed, any remedial actions taken, and a copy of the letter of finding/report issued at the conclusion of the investigation; and
 - xv. Contacting the individual allegedly harassed within a reasonable period of time following the conclusion of the investigation to assess whether there has been on-going harassment or retaliation, and to determine whether additional supportive measures are needed;
10. RC will provide written notice of the revised grievance procedures/investigation guidelines to all relevant RC staff and administrators;
 11. RC will provide written notice of the revisions to the grievance procedures/investigation guidelines to all students, employees, and visitors by posting the revised investigation guidelines on RC's website, including a copy in the Student Handbook, and posting the guidelines in prominent locations in all buildings on RC's campus;
 12. RC will ensure that its Title IX Coordinator and all other investigative staff who will conduct RC's investigations into allegations of sexual harassment will receive appropriate training on RC's policies and procedures put in place for investigating and resolving allegations of sexual harassment, as well as policies and procedures for preventing further incidents of harassment;

REPORTING REQUIREMENT FOR ACTION ITEM #3

13. By December 12, 2013, RC will provide OCR with draft copies of the revised investigation guidelines for review and approval;
14. After OCR's review and approval, then within thirty (30) calendar days (or other mutually agreed date), RC will adopt the revised investigative guidelines and verify to OCR that it has published, and posted on its website the revised documents and the contact information of the RC staff person designated to receive complaints of sexual harassment;
15. By January 21, 2014, RC will send the complainant, by certified mail, return receipt requested, a copy of RC's revised grievance procedures/investigation guidelines and notice that she may use this system to address any concerns with respect to complaints of sexual harassment;
16. By January 28, 2014, RC will provide OCR with a copy of the letter sent to the complainant informing her of RC's revised grievance procedures/investigation guidelines and a copy of the return receipt;

ACTION ITEM #4: STAFF TRAINING

17. RC will provide mandatory training on harassment to all employees, which will occur annually for the duration of OCR's monitoring of this Agreement, as follows:
 - a. For all RC administrators and faculty, in-depth training on harassment, with an emphasis on sex-based harassment. The purpose of the training is to ensure that all employees understand their rights and obligations under RC's policies and regulations, as revised.
18. Within thirty (30) school days of the start of the 2014-2015 school year, and then annually thereafter for the duration of OCR's monitoring of this Agreement, RC will provide training to its employees on the following topics:
 - a. In-depth instruction on what type of conduct constitutes sex-based harassment, specifically addressing examples of sexual and gender-based harassment, and a discussion about the negative impact that such harassment has on the educational environment;
 - b. Clarification of RC's responsibility to respond to sexual harassment and the name, job title and contact information of the individual to whom a complaint of sexual harassment should be filed;
 - c. A review of RC's revised notice of non-discrimination and a review of RC's revised grievance procedures/investigation guidelines for sexual harassment;

- d. Discussion of possible consequences and remedies for sexual harassment, and how to respond if an employee witnesses or receives a report that sexual harassment has occurred, including, but not limited to, remedial and disciplinary actions;
- e. Clarification that failure by RC staff to respond appropriately to sexual harassment of which they knew or should have known violates RC policy and federal law;

REPORTING REQUIREMENT FOR ACTION ITEM #4

- 19. By December 1, 2014, RC will provide OCR with documentation that the above-listed training was provided, including the date of the training session and a copy of all documents (*e.g.*, PowerPoint slides, handouts, etc.) provided to attendees;
- 20. By December 1, 2014, RC will provide OCR with a list of the names and job titles of all individuals who attended the above-listed training;

ACTION ITEM #5: DATA MAINTENANCE AND TRACKING

- 21. By November 1, 2013, RC will develop a log to track all complaints of sexual harassment, which will be maintained by the Title IX Coordinator, and provide OCR with a copy of the newly developed log;
 - a. The log will include space to track, at minimum, the following information: the date of the incident, the location of the incident, a brief description of the events, the name and job title of the individual who received the report, the individual assigned to investigate the complaint, the results of RC's investigation (finding that sexual harassment did or did not occur), and a summary of any remedial action taken (*e.g.*, harasser was expelled from school, the accuser was allowed to drop a class, etc.);
- 22. RC will use the new log to track all complaints of sexual harassment received by RC from **November 1, 2013** through **October 31, 2014**. For each such complaint received by RC, it will maintain, at a minimum, the following for each complaint:
 - a. A copy of the investigative report, including, but not limited to, any witness statements;
 - b. Documentation reflecting the final decision of RC as to whether sexual harassment occurred; and
 - c. Documentation reflecting any corrective or remedial action taken as a result of RC's investigation;

REPORTING REQUIREMENT FOR ACTION ITEM #5

- 23. By December 1, 2013, RC will provide OCR with a copy of its log to track complaints of sexual harassment;
- 24. By December 1, 2014, RC will provide OCR with copies of the log showing all complaints of sexual harassment received by RC during the monitoring period listed in Action Item #6 above;

MISCELLANEOUS ITEMS

- 25. Once RC adopts policies and regulations related to sexual harassment pursuant to the terms above, RC will not substantively modify those policies and regulations during OCR’s monitoring of the Agreement without the written approval of OCR. Such approval shall not be unreasonably withheld. All requests to modify such policies and regulations must be made in writing. OCR may reject proposed modifications that are not consistent with the terms of this Agreement or applicable federal civil rights laws.
- 26. RC agrees to provide OCR with any additional documentation required by OCR to determine that RC has completed the above-listed action items.

Dr. David L. Beckley, President
Rust College

Date