

RESOLUTION AGREEMENT
OCR Docket# 07-15-2233
University of Nebraska at Kearney

The U.S. Department of Education, Office for Civil Rights (OCR) and the University of Nebraska at Kearney (University), Kearney, Nebraska, enter into this agreement to resolve the allegations in the above-referenced complaint and to ensure the University's compliance with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 United States Code § 1681, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 106, which prohibit discrimination on the basis of sex by recipients of Federal financial assistance.

This Agreement is being voluntarily submitted by the University pursuant to Section 302 of the OCR's *Case Processing Manual* and prior to the completion of OCR's investigation and any issuance of findings and does not constitute an admission that the University has failed to comply with Title IX or its implementing regulations.

Accordingly, the University agrees to take or continue to take the following actions to ensure that it will promptly and equitably respond to all incidents of sex discrimination and sexual harassment/sexual violence (including sexual assault) of which the University has notice (including incidents that the University knew or reasonably should have known about); take prompt and effective steps to end any sex discrimination and sexual harassment/sexual violence; eliminate any hostile environment; prevent its recurrence; and as appropriate, remedy its effects, consistent with the requirements of Title IX.

Item A: Title IX Coordinator

The University has identified its designated Title IX Coordinator and her/his qualifications. The University will continue to ensure that the Title IX Coordinator has sufficient expertise, experience, and required training on the substantive requirements of Title IX and how to investigate complaints/ reports of all forms of sex discrimination, including sexual harassment and sexual violence, under Title IX, and that the Title IX Coordinator can fulfill all responsibilities specified in this Agreement. The University will develop a statement of roles and responsibilities and mandatory training requirements for the Title IX Coordinator to, at a minimum, include:

1. The Title IX Coordinator may not have other job responsibilities that create a conflict of interest with regard to the duties and responsibilities under Title IX.
2. The Title IX Coordinator will be responsible for ensuring the prompt and equitable investigation of complaints/reports alleging sex discrimination and sexual harassment/sexual violence; reviewing findings as to whether sex discrimination or sexual harassment/violence occurred; and ensuring the implementation of remedies (including interim measures) necessary to address the sex discrimination or sexual harassment/violence, eliminate any hostile environment, prevent recurrence, and address the effects. To the extent that any of these duties in this subpart will be delegated to other

individuals at the University or to an external entity, the statement will describe which duties will be delegated to whom, and how the Title IX Coordinator will retain oversight of/coordinate those who may be delegated such responsibilities in fulfilling these duties.

3. The Title IX Coordinator will coordinate with appropriate administrators and administrative offices to identify and address any patterns or systemic problems under Title IX, and to assess the overall efficacy of the coordination among these various offices.
4. The Title IX Coordinator will be responsible for communicating with campus police/the Department of Public Safety regarding the University's obligations under Title IX and serving as a resource on Title IX issues. Campus police will share information with the Title IX Coordinator about Title IX investigations when appropriate, so long as it does not compromise any investigation or is not otherwise prohibited by law.
5. The Title IX Coordinator will ensure the development, scheduling and implementation of necessary training and distribution of information for the University community.
6. The Title IX Coordinator will be responsible for periodic review and assessment of the University's Title IX policies and procedures to ensure that they comply with Title IX; are consolidated to the maximum extent appropriate to provide an efficient resource for students, faculty, and staff; are consistent with each other or have appropriate cross-references; and are easy to access and understand.
7. The Title IX Coordinator will annually review all complaints/reports of discrimination on the basis of sex, including sexual harassment and sexual violence, in order to identify and address any patterns or systemic issues/problems, such as: how many complaints/reports involved particular groups of students (e.g., first-year students, athletes, graduate students, members of student organizations); whether any individuals or organizations engaged in repeated misconduct; whether there are any patterns or barriers to reporting for any group of students; whether there are any campus or off-campus locations which are repeatedly the site of alleged incidents; whether complaints/reports were processed promptly and equitably in compliance with Title IX and the applicable policies and procedures; whether interim measures were consistently offered and implemented and how effective they were; and whether the steps taken to stop discrimination/harassment on the basis of sex found to have occurred, prevent its recurrence, eliminate any hostile environment based on sex, and remedy its discriminatory effects on the complainant and others, as appropriate, were effective.

Reporting Requirements:

a) By August 31, 2018, the University will provide documentation to OCR demonstrating that it has established the responsibilities of the Title IX Coordinator position in accordance with Item A for OCR review and approval.

b) By August 31, 2018, the University will provide OCR with a copy of the statement

of the Title IX Coordinator's responsibilities and corresponding training requirements to meet those responsibilities for OCR review and approval.

- c) By August 31, 2018, the University will provide OCR with the name and qualifications of the Title IX Coordinator and the Title IX Coordinator's training schedule.
- d) Within 30 days of OCR's approval of the statement of the Title IX Coordinator's responsibilities, the University will provide OCR with copies of any electronic links to University publications, websites or other materials where the statement of the Title IX Coordinator's responsibilities has been published.

Item B: Documenting Title IX Complaints/Reports

The University has a confidential and centralized record-keeping system to document each incident or complaint/report of discrimination on the basis of sex (including sexual harassment and sexual violence) received by the University, whether formal or informal, written or verbal. The University will provide OCR with the name or titles of the individual(s) responsible for collecting, maintaining, and reviewing these records. The University will develop, with the assistance of the Title IX Coordinator, and submit to OCR for its review and approval, a procedure for documenting each incident or complaint/report of discrimination on the basis of sex in the system. The procedure will require the University to maintain all information, documentation, and evidence, and require, at a minimum:

1. Documentation describing the incident or complaint/report, including the date and location of the incident.
2. A record of when and how the incident or complaint/report was brought to the attention of the University, or how the University otherwise became aware of the incident or complaint/report, including the name of the individual who reported the allegation; the identification of the alleged complainant/victim and the alleged respondent/perpetrator (if names are not available, the University will collect all other identifying information available); whether the reporter/complainant made any request for confidentiality; who was responsible for assessing such a request for confidentiality; and an explanation of how the individual balanced such a request with the University's Title IX obligations to ensure campus safety.
3. Documentation regarding any investigation conducted by the University, including: when and how they provided the parties with an opportunity to present witnesses and evidence, witnesses interviewed, documents reviewed, transcripts, recordings and other information considered and related to the investigation, to include all relevant dates (e.g., notes, transcripts, advocate reports, University police reports, etc.). [Note: If the University elects *not* to interview specific witnesses, review documents or other information, or otherwise excludes documents and information from consideration, the University should document these decisions, retain such information and documents, and provide an explanation why.]

- 4 Documentation describing the University's disposition of the incident or complaint/report, which includes the date of the disposition; the basis for the disposition; the standard of evidence used; and a description of any personal sanctions imposed, systemic remedies applied, and other University action(s) taken.
- 5 Documentation of the dates that the University updated the parties regarding the status of the investigation.
- 6 Documentation (including dates) that the University promptly provided the parties written copies of any decisions, including any appeals, regarding the incident or complaint/report, even in cases where the University serves as the complainant for proceedings.
- 7 Documentation regarding any contacts with law enforcement regarding each incident or complaint/report, and any actions taken by law enforcement, if known to the University.
- 8 Documentation of any interim measures offered to the complainant/respondent pending the University's investigation; documentation of any interim measures used by the complainant/respondent during the investigative process; and documentation that the complainant/respondent was provided with notice of the University resources available and that the University took steps to ensure that these were provided, (e.g., no contact orders, academic support, counseling, etc.).
- 9 Any other relevant official University records related to the case.
10. Documentation of any remedies provided to individuals found to have been subjected to sex discrimination (including sexual harassment and sexual violence).
11. Where sex discrimination (including sexual harassment and sexual violence) is found to have occurred, documentation that the University followed up with the complainant(s) to ensure the sex discrimination (including sexual harassment and sexual violence) has not recurred and to offer continued assistance with interim measures and finding resources; and to follow up with the respondent, as the Title IX Coordinator deems appropriate. This follow-up will occur no later than the end of the semester immediately following the closing of the case.

Reporting Requirements:

- a) By August 31, 2018, the University will provide to OCR, for review and approval, the above-referenced procedure developed in accordance with Item B above.
- b) Within 45 days of OCR's approval of the procedure, the University will adopt the procedure as part of its Title IX complaint processing procedures; distribute copies of the procedure; and provide training on the procedure to its designated Title IX Coordinator(s) and all other personnel responsible for processing, investigating, and adjudicating complaints of sex discrimination (including sexual harassment and

sexual violence).

- c) Within 90 days of OCR's approval of the procedure, the University will provide OCR with information or documentation confirming that the procedure has been distributed; the Title IX Coordinator and other personnel responsible for processing, investigating, and adjudicating incidents/complaints of sex discrimination (including sexual harassment and sexual violence), have received training on the procedure; and the procedure is being used in the University's processing of Title IX incidents/complaints.

Item C: Title IX Staff Training and Professional Development

The University provides comprehensive training appropriate for the position and overseen by the Title IX Coordinator to Title IX investigators and other staff with responsibilities for ensuring compliance with Title IX. The University will provide biennial training to employees on the University's Title IX policies and procedures as described below.

1. Specifically, the Title IX Coordinator will continue to ensure the development and provision of biennial comprehensive in-person or online Title IX training for University employees. The employee training will provide an understanding of the University's responsibilities under Title IX to address allegations of sex discrimination and sexual harassment/violence, and retaliation. The training will include, at a minimum:
 - a) The University's policies and procedures for Title IX complaints.
 - b) How to inform complainants of their right to file Title IX complaints /reports and criminal complaints simultaneously .
 - c) An explanation of the duty for responsible employees to share information with the Title IX Coordinator.
 - d) Information about the prohibition on retaliation.
 - e) Information about the system for documenting complaints/reports.
 - f) A post-training questionnaire to assess knowledge regarding how to provide a complaint/report and respond to a complaint/report.
2. The University will provide the training to new employees in person or through an OCR-approved online training within six months of their employment start date.
3. The Title IX Coordinator will continue to ensure the development and provision of Title IX training for all University employees who are directly involved in investigating, and/or resolving complaints/reports of sex discrimination, including sexual harassment and sexual violence, or who will otherwise assist in the coordination of the University's compliance with Title IX. This annual training will be conducted in person and will include, at a

minimum:

- a) The University's policies and grievance procedures for Title IX complaints/reports.
- b) The University's responsibilities under Title IX to address allegations of sex discrimination, including sexual harassment and sexual violence, regardless of whether or not the actions are also potentially criminal in nature.
- c) Recognizing and responding to allegations and complaints/reports pursuant to Title IX, including conducting interviews of victims of sex discrimination, including sexual harassment and sexual violence, and communicating in an impartial and objective manner.
- d) Recognizing and appropriately responding to allegations of retaliation, intimidation, and coercion pursuant to Title IX.
- e) How to conduct and document equitable, adequate, prompt, reliable and impartial Title IX investigations, including the application of the University's stated standard of evidence for a Title IX investigation.
- f) Protection of information regarding sex discrimination, including sexual harassment and sexual violence, allegations so that only University employees with a need to know receive such information.
- g) The link between alcohol and drug use and sexual harassment and sexual violence, including how to address the challenges of investigating incidents involving alcohol or drug use.
- h) A written assessment requiring participants to demonstrate that they have learned the material in the Title IX training.

Reporting Requirements:

- a) By October 15, 2018, the University will identify and report any additional training needed for specific groups of employees.
- b) The University will implement the staff training as outlined above within 60 days of OCR review and approval and provide documentation that the training has been provided, including: a copy of the training materials, dates(s), the name and contact information of the individual(s) who conducted the training, and the sign-in sheet identifying the name and position of each individual who received the training, along with a list of University employees within 15 days of completion.

Item D: Individual Remedy

- I. By June 1, 2018, the University will contact the Complainant in writing, and offer to discuss any remaining effects the Complainant is experiencing as a result of the University's response to the Complainant's report of an alleged violation of the University's Sexual Misconduct Policy. If the Complainant agrees to participate in such a discussion, the University will offer to provide the Complainant with resources, such as counseling, as appropriate, at the University . If the Complainant declines to participate in a discussion of these matters with the University, or declines any proffered remedy which follows such a discussion, the University has fulfilled its obligations under this section.

Reporting Requirement:

By August 31, 2018, the University will provide to OCR, for its review and approval, the results of its assessment and contact with the Complainant conducted pursuant to the Item above, and its proposed actions as a result. The University will submit a copy of its complete file, including all notes of conversations or correspondence with the Complainant for OCR's review and approval.

The University understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. 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 its implementing regulation. Upon completion of the obligations under this Agreement, OCR shall close this case.

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, 100.10), or judicial proceedings to enforce this Agreement , OCR shall give the University 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 designee below.

Date

Chancellor Douglas A. Kristensen (or designee)
University of Nebraska at Kearney