

Resolution Agreement
OCR Case No. 07-17-2276
College of the Muscogee Nation

The U.S. Department of Education (Department), Office of Civil Rights (OCR) and the College of the Muscogee Nation (College) enter into this agreement to resolve the allegation in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the College. The College assures 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 United States Code (U.S.C.) §§ 1681-1688, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 106, which prohibits discrimination on the basis of sex by recipients of Federal financial assistance from the Department.

Prior to the completion of OCR's investigation, the College agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issues of this investigation, the College agrees to take the following actions.

Policies and Procedures

1. The College will review and revise, as necessary, its "Sexual Misconduct: Discrimination, Harassment, and Assault Policy" (Title IX Policy and Procedure), which sets forth the College's sexual harassment policy and grievance procedure, to ensure it provides for the prompt and equitable resolution of allegations of sex discrimination, including sexual harassment. The College will ensure the Title IX Policy and Procedure includes, at a minimum, the following:
 - a. the steps the College will take to conduct adequate, reliable and impartial investigations of reported incidents, including providing the parties an equal opportunity to present witnesses and other evidence;
 - b. the name or title, office address, and telephone number, and email address for the Title IX coordinator, deputy Title IX coordinators, and any other individuals on campus to whom students are directed to report sex discrimination including sexual harassment;
 - c. a description of the formal complaint procedures, including designated and reasonably prompt timeframes for completion of the major stages of the complaint process, as well as the process, if any, for extending the timeframes;
 - d. a requirement that notice of the outcome, including any appeals, be provided to the parties;
 - e. an assurance that the College will take action to stop the discrimination/harassment, remedy the effects of the discrimination/harassment, and prevent recurrence of discrimination/harassment, including the provision of interim measures for the aid and protection of the individual alleging harassment during the College's investigation and disposition of the incident; identification of potential sanctions for engaging in sexual

harassment; and identification of potential remedies for individuals who have experienced sexual harassment;

- f. if the College makes an informal resolution process available for resolution of allegations of sexual harassment or appeals of such complaints, notice that participation in any informal resolution process for reports, complaints, or appeals of sexual harassment may not be required by the College; that a student requesting informal resolution of an allegation of sexual harassment (not including assault) may not be required to resolve the matter directly with the alleged harasser without the involvement of a facilitator; that in cases involving alleged sexual assaults, informal resolution will not be used even on a voluntary basis; and that the complainant must be notified of the right to terminate the informal process at any time and proceed with the formal complaint process;
- g. procedures for the selection of hearing and appeal committee members, and a description of their responsibilities, that will prevent real or perceived conflicts of interest by those handling the investigation or adjudication of allegations of sex discrimination, including sexual harassment;
- h. a requirement that the College document all reports and complaints of incidents of sex discrimination, including sexual harassment, and provide copies of such reports to the Title IX Coordinator; and
- i. a protocol for maintaining complete records of the College's response to reports or complaints of alleged sex discrimination, including sexual harassment.

REPORTING REQUIREMENT: By _____, the College will submit to OCR for its review and approval its revised Title IX Policy and Procedure.

- 2. Within 30 calendar days of OCR's approval of the Title IX Policy and Procedure referenced in Item 1 of the Agreement, the College will adopt, implement and publish the revised Title IX Policy and Procedure. Publication will include written notice of the Title IX Policy and Procedure to the College community, including students and employees 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 10 calendar days after the completion of Item 2 of the Agreement, the College will provide OCR with documentation that it has completed Item 2, including copies of the written notices to students and employees regarding the revised Title IX Policy and Procedure and a description of how the notices were distributed, copies of the College's revised student handbooks, a link to the College's webpage where the revised Title IX Policy and Procedure is located, and documentation of any other additional means of notification used by the College.

Training

3. The College will ensure College personnel, including administrators, faculty, and staff, are effectively and appropriately trained regarding the College's revised Title IX Policy and Procedure; how to identify possible incidents of sexual harassment; the responsibility to report, and the procedures for reporting, possible incidents of sexual harassment to the Title IX Coordinator; and the prohibition of retaliation against persons who report sexual harassment or participate in related proceedings.

REPORTING REQUIREMENT: By _____, the College will provide documentation to OCR demonstrating that the training required by Item 3 of the Agreement was provided to College personnel, including administrators, faculty, and staff. The documentation must include: the date(s) of the training; the name(s) and credentials of the presenter(s); copies of any materials used during the training, including any handouts, guides or other materials; and sign-in sheets showing which College personnel attended the training.

4. In addition to the training provided pursuant to Item 3 of the Agreement, the College will ensure that personnel responsible for conducting Title IX investigations, serving on Title IX hearing committees, or making determinations under Title IX, are also appropriately trained on conducting investigations and hearings, making determinations under Title IX, and documenting Title IX investigations, hearing and determinations.

REPORTING REQUIREMENT: By _____, the College will provide documentation to OCR demonstrating that the training required by Item 4 of the Agreement was provided to the appropriate College personnel. The documentation must include: the date(s) of the training; the name(s) and credentials of the presenter(s); copies of any materials used during the training, including any handouts, guides or other materials; and sign-in sheets showing which College personnel attended the training.

5. The College will ensure all students at the College are appropriately trained regarding the College's revised Title IX Policy and Procedure; how to identify possible incidents of sexual harassment; the procedures for reporting, possible incidents of sexual harassment to the Title IX Coordinator; and the prohibition of retaliation against persons who report sexual harassment or participate in related proceedings.

REPORTING REQUIREMENT: By _____, the College will provide documentation to OCR demonstrating that the training required by Item 5 of the Agreement was provided to students at the College personnel. The documentation must include: the date(s) of the training; the name(s) and credentials of the presenter(s); copies of any materials used during the training, including any handouts, guides or other materials; and documentation of student participation in the training.

Incident Review

6. The College will review all disciplinary incidents occurring during the 2018-19 academic year to ensure that incidents of alleged sexual harassment were processed pursuant to the College's revised Title IX Policy and Procedure.

REPORTING REQUIREMENT: By _____, the College will provide OCR a copy of its written summary of its review of disciplinary incidents during the 2018-19 academic year; a description of any further actions to be taken as a result of the review; and documentation of the implementation of those actions. If deemed necessary by OCR, and upon request by OCR, the College will provide OCR with a copy of the College's investigative and hearing file for each disciplinary incident.

7. The College will review reports of and complaints alleging sexual harassment, received by the College during the 2018-19 academic year to determine whether each report or complaint was handled consistent with the requirements of Title IX. The review will consider whether the College promptly and adequately investigated all complaints and reports of sexual harassment; provided interim relief during the pendency of the investigation; provided notice of the outcome(s) to both parties; took steps to prevent the recurrence of harassment and to address any hostile environment created by the harassment; and responded appropriately to any reports or complaints of retaliation under Title IX. The College will identify any further actions that need to be taken to prevent the recurrence of harassment or retaliation, and to address any hostile environment created by the harassment, including providing remedies that may still be available to complainants. The College will prepare a written summary of the review including the names and titles of all individuals who participated in the review; a description of the documents and other information reviewed; a description of the process used to analyze the required information; the findings made during the review; and recommendations for further actions, if any, to be taken as a result of the review.

REPORTING REQUIREMENT: By _____, the College will provide OCR a written summary of its review of reports and complaints alleging sexual harassment received by the College during the 2018-19 academic year; a description of any further actions to be taken as a result of the review; and documentation of the implementation of those actions. If deemed necessary by OCR, and upon request by OCR, the College will provide OCR with a copy of the College's complete investigative and hearing file for each incident.

Individual Remedy

8. Upon completion of Items 1, 3, and 5 of the Agreement, the College will send the Student a letter informing him that he may request the College to investigate and resolve the XXXXX X, XXXX complaint filed against him pursuant to the College's revised Title IX Policy and Procedure. The College's letter to the Student will inform the Student that he must notify the College's Title IX Coordinator in writing (email will suffice) within 30 calendar days of the date of the letter of his desire for the College to process the XXXXX X, XXXX complaint under its revised Title IX Policy and Procedure. The letter will identify the College's Title IX coordinator by name and provide the coordinator's office address, telephone number, and

email address. If the Student elects to have the complaint processed under the College’s revised Title IX Policy and Procedure, the College will provide the Student the due process to which he is entitled under College’s revised Title IX Policy and Procedure. If the College determines the Student’s conduct violated the College’s sexual harassment policy, the College will identify and provide any remedies (such as counseling or a no contact order) determined to be appropriate for the Grievant based on the XXXXX X, XXXX complaint. No sanctions other than those imposed on the Student pursuant to the Student’s XXXXX X, XXXX disciplinary hearing will be assessed. The College will not process the XXXXX X, XXXX complaint pursuant to its revised Title IX Policy and Procedure unless the Student requests the Title IX Coordinator to initiate such action in writing within 30 days of the College’s letter to the Student.

REPORTING REQUIREMENT: By _____, the College will provide OCR a copy of the letter sent to the Student. Within 45 days of the date of the College’s letter to the Student, the College will notify OCR in writing of the Student’s decision. If the Student elects to have the XXXXX X, XXXX complaint addressed under the College’s revised Title IX Policy and Procedure, within 15 days of completion of the College’s Title IX process regarding the XXXXX X, XXXX complaint, the College will provide OCR a complete copy of its documentation of the Title IX proceedings for the complaint.

The College 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 College understands that during the monitoring of this Agreement, if necessary, 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 Title IX and its implementing regulations at 34 C.F.R. §106. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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.

This Agreement will become effective immediately upon the signature of the College’s representative below.

President or Authorized Designee
College of the Muscogee Nation

Date