

**RESOLUTION AGREEMENT
CENTRAL NEW MEXICO COMMUNITY COLLEGE
CASE NUMBER 08-16-2048**

The U.S. Department of Education, Office for Civil Rights (OCR) in its investigation of the above-referenced complaint against Central New Mexico Community College, the College agrees to the terms of this Agreement. OCR investigated whether Central New Mexico Community College (College) failed to respond promptly and effectively to a complaint of sexual harassment. OCR also reviewed the College's policies prohibiting sexual harassment, the College's sexual harassment grievance and complaint procedures, and the College's designation of a person(s) to coordinate its efforts to comply with the regulation.

During the course of OCR's investigation, before OCR had made any findings, the College requested to enter into an agreement with OCR to ensure that its policies and procedures comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX). Pursuant to Section 302 of OCR's Case Processing Manual, allegations and issues under investigation may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving an allegation or issue and OCR believes that doing so is appropriate, so long as the remedies align with the allegations or the information obtained during the investigation. The College's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such. By entering into this Agreement, the College does not admit to any of the allegations made in the complaint, nor does it admit that it has violated Title IX or its implementing regulations in any way. The College is committed to complying fully with Title IX, and, accordingly, it has voluntarily agreed to take the steps outlined in this Agreement. Accordingly, to ensure compliance with Title IX and its implementing regulation and to resolve the issues of this case, the College voluntarily agrees to take the following actions:

I. SEXUAL HARASSMENT POLICIES AND PROCEDURES

After obtaining OCR's written approval, the College will adopt and implement Title IX policies and grievance procedures to address complaints of sexual harassment. The policies and procedures will include, at a minimum, the following:

- a. a statement of the College's jurisdiction over Title IX complaints;
- b. notice to students and employees of the grievance procedures, including where complaints may be filed;
- c. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination or sexual harassment (including sexual violence) carried out by employees, other students, or third parties;
- d. provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- e. a statement that these procedures will be administered in a manner that eliminates any conflicts of interest (real or perceived) by individuals involved in the handling of the complaints;
- f. designated and reasonably prompt time frames for the major stages of the complaint process;

- g. assurance that alleged victims of sexual harassment will not be required to work out the problem directly with alleged perpetrators without appropriate involvement by the College and that mediation of complaints alleging sexual violence is never appropriate;
- h. assurance that any informal process can be ended by an alleged victim at any time in order to begin a formal stage of the complaint process;
- i. provisions stating that evidence of past relationships will not be allowed;
- j. written notice to the complainant and alleged perpetrator of the outcome of the complaint;
- k. provisions that the College will maintain all documentation of the complaint investigation and any corrective actions taken in a system that allows the Title IX Coordinator or others to track incidents by school site and perpetrator;
- l. assurance that the College will take steps to prevent recurrence of any sexual harassment and remedy discriminatory effects on the complainant and others, if appropriate;
- m. accurate definitions of sexual harassment (which includes sexual violence), and an explanation as to when such conduct creates a hostile environment;
- n. reporting policies and protocols, including provisions for confidential reporting, including identification of the employee or employees responsible for evaluating requests for confidentiality;
- o. notice that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation;
- p. notice of a student's or employee's right to file a criminal complaint and a Title IX complaint simultaneously;
- q. provisions for the timely notification of the College's Title IX Coordinator(s) of any incident of sexual harassment and sexual assault against students;
- r. notice that the College will comply with law enforcement agency requests for cooperation and that such cooperation may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. However, the initiation of a criminal complaint or other outside investigation does not mitigate the College's obligation to complete a prompt and equitable resolution of every complaint alleging sex discrimination;
- s. notice of available interim measures that may be taken to protect students in the educational setting, pending the outcome of any College investigation and any law enforcement investigation;
- t. a statement that the preponderance of the evidence (i.e., more likely than not that sexual violence occurred) will be the standard used in investigating a complaint;
- u. notice of potential remedies for students and potential sanctions against perpetrators;
- v. sources of counseling, advocacy, and support; and
- w. provisions stating that training will be provided for all individuals implementing the grievance procedures.

Recognizing that Title IX does not require a separate sexual harassment complaint procedure, the College assures OCR that if it chooses to use student disciplinary procedures or other separate

procedures to resolve complaints of sexual harassment, such procedures must meet the Title IX requirement of affording a complainant a prompt and equitable resolution by complying with the requirements set forth above.

REPORTING REQUIREMENT:

Within 90 days of this Agreement, the College will submit to OCR for review and approval the College's draft Title IX policies and grievance procedures.

REPORTING REQUIREMENT:

Within 30 calendar days of written notification from OCR that the revised Title IX grievance procedures developed in accordance with Section III of the Agreement are consistent with Title IX requirements, the College will adopt and implement the procedures and will provide all students and employees written notice regarding the new grievance procedures for resolving Title IX complaints, as well as information on how to obtain a copy of the grievance procedures. The College, at a minimum, will make this notification through the College's website, electronic mail messages to employees, student and employee handbooks, and any regularly issued newsletters (in print or online), as well as by any other additional means of notification the College deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENT:

Within 60 calendar days of written approval from OCR that the revised Title IX procedures referenced in Section I are consistent with Title IX, the College will provide OCR documentation that it has implemented Section I, including copies of the written notices issued to students and employees regarding the new Title IX procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised Title IX procedures are located.

II. TITLE IX COORDINATOR

The College will select and designate at least one individual (the Title IX Coordinator) to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including the equitable resolution of complaints of sex discrimination, including sexual harassment. In addition, the Title IX Coordinator will develop and regularly participate in activities designed to raise awareness with the College's students, faculty, and staff about sexual harassment.

The College will ensure that the Title IX Coordinator receives training that includes recognizing and appropriately responding to Title IX incidents and complaints by students, faculty, and staff. The training will address, at a minimum, the following topics:

- a. an overview of the College's revised policies and procedures for Title IX complaints;
- b. the definition of sexual harassment (including sexual violence), and an explanation as to when such conduct creates a hostile environment;

- c. the College's responsibilities under Title IX to respond promptly and equitably to allegations of sexual harassment;
- d. how to conduct and document prompt, equitable, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation and how they differ from those in a criminal investigation;
- e. how to notify complainants of the right to file a concurrent criminal complaint and how to file one;
- f. how to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings;
- g. the system for tracking complaints of sexual harassment, including to document and maintain records of sexual harassment investigations; and
- h. the responsibility of the Title IX Coordinator to regularly develop and participate in activities designed to raise awareness within the College regarding sexual harassment and the College's policies and procedures regarding sexual harassment.

REPORTING REQUIREMENT:

By 90 days from the date of this Agreement, the College will inform OCR of the identity and qualifications of the Title IX Coordinator, and outline the training program developed for the Title IX Coordinator pursuant to Section II of this Agreement.

REPORTING REQUIREMENT:

Within 30 days of the beginning of the 2016-2017 school year, the College will provide documentation to OCR demonstrating that the Title IX Coordinator has completed the training program.

REPORTING REQUIREMENT:

Within 30 days of the beginning of the 2016-2017 school year, the College will provide documentation to OCR demonstrating that it has notified students and faculty of the name, address, telephone number, and email address of the Title IX Coordinator.

CONCLUSION

The College understands that OCR will not close the monitoring of the Agreement until such time that OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the provisions of Title IX of the Education Amendments of 1972 that were at issue in this case.

The College understands that by signing the 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 the consultant and any retained private

investigator, interview staff, and students and request such additional reports or data as are necessary for OCR to determine whether the College has complied with the terms of this Agreement and the provisions of Title IX of the Education Amendments of 1972 that 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 60 calendar days to cure the alleged breach.

/s/

5/20/16

Central New Mexico Community College

Date