

Resolution Agreement
California State University, Fullerton
(Docket Number 09-13-2283)

The California State University, Fullerton (University) agrees to implement this Resolution Agreement (Agreement), in order to resolve the issues under investigation by the U.S. Department of Education, Office for Civil Rights (OCR) in the above referenced case. In signing this agreement, the University does not admit to any violation of state or federal law. Pursuant to CPM Section 302, OCR did not make findings regarding the allegations in the complaint.

I. Title VI Discrimination Student Complaint Resolution Process

- A. On or before September 1, 2014, to ensure compliance with Title VI of the Civil Rights Act of 1964 and the University's Nondiscrimination Policy, the California State University Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students- Executive Order 1097, the University will develop and institute a system for the review of campus investigations and resolutions of student and employee conduct that may constitute race-based discrimination and/or harassment of any University student. This system will require that:
1. The University appoint a designated University-level official (the "Designated Official"), with appropriate training on the requirements of Title VI and in investigating and responding to discrimination and harassment;
 2. The Designated Official will review all incident reports involving discriminatory conduct towards students to ensure that alleged incidents that involved possible race-based harassment were properly identified as such;
 3. The Designated Official will begin the steps set forth below within ten (10) working days of receiving an incident report, informal complaint, or formal complaint involving possible race-based harassment. The steps will include:
 - a. Investigating the incident or delegating the investigation of the incident to a properly trained designee;
 - b. Ensuring that any interim remedies that may be needed by the student-complainant to prevent further harm are immediately implemented;

- c. Conducting (or overseeing) the investigation to ensure that it complies with the steps set forth in the University's Non Discriminatory Policy.
- d. Ensuring that the investigation process include interviews of a sufficient number of relevant witnesses upon which to reach a finding, including the individual(s) alleged to have been subjected to discrimination, and anyone else who is reasonably likely to have knowledge of the alleged discrimination;
- e. Ensuring that records are maintained documenting the processing and resolution of discrimination complaints, including documentation of witness interviews;
- f. Ensuring that, in accordance with University's Nondiscrimination Policy, the complaining students is provided with written notice of the investigation outcome. Notice of the investigation outcome shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether the University's Nondiscrimination Policy was violated, and if so, any Remedies to be afforded to the Complainant. If the outcome is that this University's Nondiscrimination policy was not violated, the notice shall inform the Complainant of his/her right to file an appeal pursuant with the University's Nondiscrimination Policy.
- g. Reviewing the investigation report that sets forth the findings and the basis for those findings
- h. Review all of the supporting documentation for the conclusion reached in the report, including, but not limited to the complaint, names of witnesses, interview notes, correspondence with the student subject to the harassment and the alleged perpetrator and documentation of any prior incidents of discrimination or harassment involving the alleged perpetrator; and
- i. Determining whether the University response complied with, including the investigation, the notices provided to the

complaining party, and the interim steps taken to stop the harassment, and the further steps that may be needed to prevent further harassing incidents and acts of retaliation, remedy harm to the student subject to the harassment, and address educational environment and University climate issues related to or affected by the incident.

4. If the Designated Official determines that the University did not adhere to the University's Nondiscrimination Policy, the Designated Official will:
 - a. Promptly identify all areas where the response did not comply ;
 - b. Promptly inform the employee(s) who responded to the complaint in a manner in which the response did not comply with University's Nondiscrimination Policy), and provide guidance to ensure that a proper response is provided in the future;
 - c. Initiate timely steps to remedy the non-compliance with regard to the particular complaint; and
 - d. Within ten (10) working days of receiving the report, referral, or complaint, contact the student subject to the harassment and offending employee (s) and/or student(s) to inform them of the Designated Official's review of the complaint, provide them a copy of the University Non-Discriminatory Policy, and provide the timeline for resolution of the underlying complaint in accordance with the timelines set forth in the aforementioned policy.
 5. Maintain documentation supporting compliance with this Agreement during the term of the Agreement, academic years 2013-2014 and 2014-2015 and for three years following the end of the Agreement. During the term of the Agreement, the Designated Official will provide a bi-annual written report to the University President on compliance with the Agreement.
- A. For the term of this Agreement, academic years 2013-2014 and 2014-2015, the University will also take the corrective action described in paragraph I.A.4. where OCR determines that the University did not respond to incidents of racial harassment in a timely and effective manner.

B. The University, through the Designated Official, will provide mandatory training and guidance to the University's administrators, faculty and staff regarding the legal requirements to expeditiously respond to complaints of any forms of discrimination. The trainings will take place during the 2013-2014 and 2014-2015 academic years. During the trainings, the University will distribute appropriate and relevant reference material and guidelines that will include the following topics:

- The University policy prohibiting discrimination and race-based harassment of a student by other students or by employees;
- The types of conduct that could constitute racially-based harassment that creates a hostile environment;
- An explanation that the process set forth in University's Nondiscrimination Policy is the University's procedure for resolving discrimination complaints; a summary of the procedure; a reference to where individuals can locate the full procedure; and, the name and contact information of the University-level individual responsible for responding to complaints of discrimination, including harassment;
- The appropriate action/response that an administrator, faculty or staff member must take when she/he learns of race-based harassment or discrimination of a student;
- Information that students who report discrimination or race-based harassment must be notified that they can address their complaints through the University Nondiscrimination policy and how to obtain a copy of the procedure;
- The investigation process must include interviews of a sufficient number of relevant witnesses upon which to reach a finding, including the individual(s) alleged to have been subjected to discrimination, and anyone else who is reasonably likely to have knowledge of the alleged discrimination;
- Records must be maintained documenting the processing and resolution of discrimination complaints, including documentation of witness interviews;

- The complaining students must be provided with written notice of the outcome of the complaint including a statement of all the issues identified. The findings on each issue must include: the rationale for each finding; the corrective actions for each issue, if any; the notice of the right to appeal; and the Designated Official to serve as a resource for any administrators or site staff members who have questions as to how the guidance applies to a given situation and/or scenario.
- That there may be adverse consequences for employees who fail to bring student discrimination complaints they receive forward for proper handling.

C. The University will post on the University websites, and in prominent locations, a notice for all students, faculty, and staff. The notice will state that:

- The University does not tolerate discrimination, including acts of race-based harassment, and that the University is committed to conducting a prompt investigation of complaints of racially-based discrimination and harassment; and it will include contact information for the designated official to whom students may report allegations of harassment; and
- Any student who believes he or she has been subjected to discrimination and race-based harassment is encouraged to report it to an appropriate University official or to the Designated Official.

II. Additional Corrective Action

- The University will provide the Complainant with an opportunity to retake her final exam at the earliest possible opportunity. The Complainant must retake the exam prior to August 23, 2014 or she shall have waived the opportunity.
- The University will consider whether to take corrective action against the Department Chair who failed to recognize the Complainant's attempt to file a discrimination complaint with the University and report to OCR no later than September 1, 2014, the results of that decision.
- On or before September 1, 2014, the University will conduct a climate survey to review employee perception of campus climate, including discrimination based on race, gender, disability and other protected characteristics. On or before January 30, 2015, the University will provide a summary to OCR of the Diversity

Action Plan the University will adopt in response to the information received in the employee climate survey.

- On or before December 30, 2015, the University will conduct a climate survey to review student perception of campus climate, including discrimination based on race, gender, disability and other protected characteristics. Prior to conducting the student climate survey, the University will submit to OCR for review and approval the list of questions to be surveyed.

REPORTING

- A. The University will provide documentation of its compliance with this Agreement through written reports, which will be provided to OCR on or before September 1, 2014, January 30, 2015 and July 30, 2015. Each compliance report will cover the immediately preceding semester and will include the following information:
1. The date and duration of each training session required by this Agreement; copies of all agendas for such training sessions; and copies of the training materials distributed at student and employee trainings.
 2. The name and position of the employees who attended each training. The University will provide additional verification of completed training for those individuals who received rescheduled training.
 3. For each individual who receives training in 2014-2015, a signed statement by the individual acknowledging that he or she has reviewed the University's policies and regulations related to race-based discrimination and harassment, has received the employee training, and understands her or his obligations to respond to race-based harassment under University policy and federal law.
- B. Certification by the Designated Official that she/he has reviewed all incident reports, informal complaints, and formal complaints related to discrimination, and harassment based on race and all documentation related to such incidents to determine whether any incidents, allegations, or complaints were not properly identified, investigated, or resolved consistent with the University's Nondiscrimination Policy. The University

understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI at 34 C.F.R. Part 100, which was at issue in this case.

C. On or before December 1, 2014, the University will provide OCR with the actions it plans to take in response to information learned from the employee climate survey. On or before April 30, 2016, the University will provide OCR with the actions it plans to take in response to information learned from the student climate survey. The University 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 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 the regulation implementing Title VI at 34 C.F.R. Part 100, which was at issue in 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 a minimum of sixty (60) calendar days to cure the alleged breach.

_____/s/_____
President or Designee

_____8/14/2014_____
Date