

## **Resolution Agreement Reached During an Investigation**

Paul Mitchell, The School Costa Mesa Campus

OCR Case Number 09-14-2042

In order to resolve the issues raised under Title IX of the Education Amendments of 1972 (Title IX) in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), and without admitting or conceding any violation of Federal law with respect to the issues raised in the complaint, Paul Mitchell, The School Costa Mesa Campus<sup>1</sup> (School) agrees to implement this agreement.

### **I. Notice of Nondiscrimination**

The School will adopt, or revise as needed, a nondiscrimination statement that states that the School does not discriminate on the basis of race, color, national origin, sex, disability, and age in its education programs and activities. The notification will state that the requirement of nondiscrimination in educational programs and activities extends to employment and admission. It will also include a statement prohibiting retaliation for reporting, filing, or participating in a complaint of discrimination.

By September 30, 2014, the School will provide a draft of the nondiscrimination statement to OCR for review and approval. OCR will promptly review and provide comments, if any. The nondiscrimination statement will be adopted in final form by the School and forwarded to OCR within 30 days after OCR approves the draft.

### **II. Title IX Policy**

The School will adopt a policy prohibiting sex discrimination (including sexual harassment and sexual violence) in conformance with Title IX. The School's policy, at a minimum, will include:

1. A statement that discrimination on the basis of sex is prohibited under Federal law and School policy.
2. A statement of the School's jurisdiction over Title IX complaints.
3. Adequate definitions of sex discrimination, which includes sexual harassment and sexual violence, and an explanation as to when such conduct creates a hostile environment.
4. Examples of the types of discrimination that are covered under Title IX.
5. The name or title, office address, telephone number, and email address of the School's designated Title IX coordinator.
6. Information on and reference to the School's Title IX grievance procedures.

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<sup>1</sup> This Resolution Agreement is specifically in regards to the Costa Mesa campus.

7. Notice that Title IX prohibits retaliation.
8. Notice of the School's policy and provisions for maintaining confidentiality, including factors the School will use in weighing a complainant's request for confidentiality.

By September 30, 2014, the School will provide a draft of the Title IX policy to OCR for review and approval. OCR will promptly review and provide comments, if any. The policy will be adopted in final form by the School and forwarded to OCR within 30 days after OCR approves the draft.

### **III. Title IX Coordinator**

The School will identify an employee as the Title IX Coordinator with responsibility for coordinating compliance under Title IX. The School will provide a clear statement of the Title IX Coordinator's responsibilities that will, at minimum, include the following.

1. Oversee the School's response to Title IX reports and complaints;
2. Identify and address any patterns or systemic problems revealed by such reports and complaints; and
3. Be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office.

In addition to the above core responsibilities, the School may include in its statement additional responsibilities for the Title IX Coordinator, such as providing training to students, faculty, and staff on Title IX issues; conducting Title IX investigations; evaluating a complainant's request for confidentiality in the context of the School's responsibility to provide a safe and nondiscriminatory environment for all students; and ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and service providers.

By September 30, 2014, the School will provide OCR with the name of the Title IX Coordinator and his/her responsibilities, along with the person's background, training, and other qualifications to fulfill these responsibilities.

### **IV. Discrimination Complaint Procedures**

The School will adopt and implement discrimination complaint procedures that provide for the prompt and equitable resolution of complaints of discrimination. The discrimination complaint procedures will be applicable to allegations of discrimination on the basis of sex. The School's complaint discrimination procedures, at a minimum, will include:

1. Notice to students and employees of the grievance procedures, including where complaints may be filed;

2. Application of the grievance procedures to complaints filed by students/employees or on their behalf alleging sex discrimination carried out by employees, other students, or third parties;
3. Provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
4. Designated and reasonably prompt time frames for the major stages of the complaint process;
5. Notice of available interim measures that may be taken to protect the complainant in the educational setting;
6. The evidentiary standard that must be used (preponderance of the evidence) in resolving a complaint;
7. Written notice to the complainant and respondent of the outcome of the complaint, including:
  - i. whether the School found that the alleged conduct occurred, and whether it constituted discrimination;
  - ii. any individual remedies offered or provided to the complainant or any sanctions imposed on the respondent that directly relate to the complainant;
  - iii. any other steps the School took to eliminate the hostile environment, if the School found one to exist, and prevent recurrence; and
  - iv. any appeal opportunities.
8. Assurance that the school will take steps to prevent recurrence of any discrimination/harassment and remedy discriminatory effects on the complainant and others, if appropriate; and
9. Provision for ongoing notice of the complaint discrimination procedures in campus publications and on the website, including locations to obtain a copy of the discrimination complaint procedures.

By September 30, 2014, the School will provide a draft of the discrimination complaint procedures to OCR for review and approval. OCR will promptly review and provide comments, if any. The procedures will be adopted in final form by the School and forwarded to OCR within 30 days after OCR approves the draft.

**V. Tracking of Complaints**

The School will develop a confidential system for maintaining records on all reports and complaints of discrimination (including harassment) filed by students and employees, including verbal complaints. OCR will promptly review and provide comments, if any. Upon review and approval of the confidential system by OCR, the School will implement the system and provide a report to OCR regarding its handling of complaints for each term for four terms. The report will:

1. Describe the nature of each complaint and how it was addressed by the School;
2. Describe the investigation conducted in response to each complaint, each investigation's outcome including any corrective action taken, and the rationale for the outcome; and
3. Include in the final report a recommendation as to whether continued monitoring is required.

By September 30, 2014, the School will provide a description of the complaint tracking system in accordance with this provision. OCR will promptly review and provide comments, if any. Upon review and approval by OCR, the School will implement the system by December 31, 2014. At the end of each subsequent term for four terms, the School will provide a written report to OCR regarding its handling of complaints; the written report will be due to OCR within 30 days after the term ends.

## **VI. Training and Notice**

### **1. All School Instructors and Administrators**

The School will provide annual training to all instructors, and administrators on the School's legal responsibilities to ensure an environment free of sex discrimination (including harassment) and the School's policies and procedures with respect to sex discrimination/harassment. The training will include instructions on how to prevent and identify discrimination; their responsibilities if they observe or are informed of an incident of discrimination, including how to report an incident of discrimination and consequences for failing to report it; how to appropriately inform students of their right to file an unlawful discrimination complaint; the procedure for responding to a complainant's requests for confidentiality; and how to process/forward any complaint of discrimination they receive to the appropriate administrators.

### **2. All School Students**

The School will provide notice to all current and incoming students on the School's legal responsibilities to ensure an environment free of sex discrimination (including harassment) and the School's policies and procedures with respect to sex discrimination/harassment. The notice will include instructions on what constitutes discrimination/harassment, acceptable behavior expected of students, disciplinary consequences for engaging in discriminatory/harassing behavior, how to report discrimination/harassment, and the School's policies for responding to complaints or reports of discrimination/harassment and requests for confidentiality.

3. Select School Employees: Complaint Investigation Training

For individuals, such as directors, deans, supervisors, and human resources staff, with responsibilities for investigating and addressing complaints of sex discrimination (either informal or formal complaints), the annual training will include additional training on fact gathering and other investigative techniques; working with and interviewing persons subjected to discrimination/harassment; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct investigations; providing interim remedies to the complainant where needed; applying the correct legal standards applicable to discrimination; crafting effective remedies; providing adequate notice of the outcome of the investigation to the parties; maintaining confidentiality and documentation of the investigation; and tracking complaints under the system developed in Item V above.

4. Title IX Coordinator

The School will ensure that the Title IX Coordinator is appropriately trained to carry out his/her responsibilities, including on all areas of training identified above in Item VI.3., as well as other areas specific to his/her role as the Title IX Coordinator. The School will ensure that the Title IX Coordinator has the authority and visibility necessary to fulfill the responsibilities of the position.

By December 31, 2014, the School will notify OCR that it has provided the requisite trainings, including a copy of the training materials, the qualifications and subject matter expertise of the individual(s) who provided the training, and sign-in sheets of the attendees. The School will continue to notify OCR of completion of this training requirement within 30 days of the training being completed, on an annual basis, until OCR has completed its monitoring of this Agreement.

**VII. Notice**

The School will provide ongoing notice of its nondiscrimination statement, Title IX policy, Title IX Coordinator, and sex discrimination complaint procedures, as described above in Items I through IV, in its campus publications such as the School bulletin or catalog, student handbook, classroom posters, and other written materials. The notification will include information on the School's policies against discrimination and harassment, including how students can file unlawful discrimination complaints. The School will provide ongoing notice to employees and staff of the name or title, office address, telephone number, and email address of the School's designated Title IX coordinator, and state that questions regarding Title IX may be referred to the School's Title IX coordinator or to OCR.

By December 31, 2014, the School will provide OCR with documentation of notice of the foregoing items to the School community in accordance with this provision.

**VIII. Climate Survey**

The School will develop and administer an annual climate survey designed to assess, among other climate concerns to be determined by the School, the presence and effect of sexual harassment at the School sites. The climate survey may be accomplished through a written or electronic survey, provided that students receiving the survey are also notified of a contact person, such as a counselor or dean,

should they wish to discuss this issue in person. The survey must be provided to OCR for review and approval prior to its use.

By September 30, 2014, the School will provide OCR with a copy of the climate survey for review and approval. OCR will promptly review and provide comments, if any, to the draft survey. By December 31, 2014, and annually thereafter until OCR has completed its monitoring of this Agreement, the School will conduct the climate survey. Within 30 days of completing its analysis of the climate survey, the School will provide OCR with a copy of the results, analysis, recommendations, and actions that it plans to take.

#### **IX. Task Force**

The School will develop a Task Force that will include students, instructors, and administrators to make recommendations on: improving campus climate; identifying strategies for preventing harassment; and ensuring that students understand their rights to be protected from sexual harassment and how to report incidents of harassment. The School will designate an employee on each campus to coordinate the Task Force's meetings and work; the designated employee will prepare a written summary of the recommendations of the Task Force. The School may develop the Task Force from the structure and membership of an existing committee with a similar purpose. The Task Force will meet at least two times each semester.

By September 30, 2014, the School will provide OCR with written confirmation that the Task Force has been duly constituted, as well as the date of the first meeting of the Task Force. By December 31, 2014, and annually thereafter until OCR has completed its monitoring of this Agreement, the School will provide OCR with a report summarizing the Task Force's recommendations and the School's responses thereto to, including whether and how they were implemented.

#### **X. Individual Remedy for the Complainant**

By June 1, 2014, the School will provide documentation to OCR that the School provided the complainant with a written accounting of her attendance in the barbering program. The accounting will show that the School has reversed the absences or provided the complainant with an opportunity to make up the work she missed when she chose not to come to School due to the classroom environment.

#### **General Provisions:**

The School understands that OCR will not close the monitoring of this agreement until OCR determines that the School has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX at 34 C.F.R. §§106.8 and 106.31 which were at issue in this case.

The School 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 School understands that during the monitoring of this agreement, if necessary, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX at 34 C.F.R. §§106.8 and 106.31.

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

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\_\_5/14/2014\_\_\_\_\_  
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Lori Noble

Date

Director of Compliance