

Resolution Agreement
Foothill College
Case Number 09-14-2240

In order to resolve the compliance issues identified during the investigation of the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), Foothill College ("College") and the Foothill-De Anza Community College District ("District") agree to take the actions outlined in this Resolution Agreement (Agreement).

I. Administrative Procedures 4640

- a. To comply with Federal requirements, the District will modify AP 4640, Procedures to Resolve Complaints Regarding Harassment and Discrimination, in the following ways.
 - i. Expand the description of who may file a complaint to include other individuals or entities such as a family member, representative, organization, or other third party wishing to file on behalf of an individual or group alleged to have suffered unlawful discrimination or harassment. In addition, clarify that the portions of AP 4640 which pertain to procedural aspects required by the State Chancellor's Office in accordance with Title 5 apply only to complaints filed by individuals who meet the definition of a complainant contained in Title 5, section 59328. (Sections VII.B.1., VII.D.b.)
 - ii. Clarify that use of the Chancellor's Office complaint form is encouraged, but not required, and that a complainant may initiate a formal complaint process by submitting the complaint in another written format and specifying that it is a formal complaint of discrimination. (Sections V.4., VII.A., VII.C., and IX.)
 - iii. Revise the requirement that a copy of the formal complaint be provided to the respondent in all cases to state that information in the complaint will be provided to the respondent to the extent necessary, in the judgment of the administrator acting on the matter, to provide due process and to the extent in the administrator's judgment the information does not result in an unwarranted invasion of the privacy of the complainant or third parties. (Section IX.D.b.)
 - iv. Expand the type of information provided to the complainant after a formal complaint is filed to include notice of the right to have a representative present during any meeting with the complainant conducted as part of the review, investigation, or follow-up of the formal complaint. (Section IX.C.)
 - v. Clarify that the College and/or District administrator handling the matter may disclose disciplinary action taken against an employee or student found to have engaged in harassment, when the action directly relates to the complainant and/or when necessary as a means of notifying a complainant

that the College has effectively eliminated a hostile environment. (Section XV.)

- vi. Clarify that the Informal Complaint Procedure may include investigation and/or mediation. (Section VII.B.)
- b. The District will distribute the modified AP 4640 to relevant personnel responsible for receiving and/or responding to complaints of discrimination, including harassment.
- c. The College will include notice of the modified AP 4640 on its website and in electronic student publications such as the Catalog and Schedule of Classes. The notice will inform students where to obtain a copy of the modified procedure. The College will also include notice of the modified procedure in printed student publications in the next regular printing cycle after it is finalized.

II. Campus Coordinator

- a. The College will take effective action through written guidance and/or training to ensure that the Campus Coordinator executes her responsibilities consistent with the provisions of AP 4640, including:
 - i. continuing to provide individuals inquiring about filing a complaint with copies of relevant policies, procedures, and forms;
 - ii. continuing to accurately explain the informal and formal complaint procedures to individuals inquiring about filing a complaint;
 - iii. continuing to provide complainants with the opportunity to document their complaint concerns in writing, whether they choose to proceed under the informal or formal complaint procedure;
 - iv. continuing to implement the informal complaint procedure consistent with AP 4640, which under the appropriate circumstances provides for investigation and/or mediation; and
 - v. continuing to refer all individuals wishing to pursue the formal Title 5 complaint procedure to the District Vice Chancellor, Human Resources and Equal Employment Opportunity.

III. Reporting Requirements

- a. Within 45 calendar days following this Agreement, the District will provide OCR with a draft of its modified AP 4640, which, upon approval by OCR, it will present to the next Chancellor's Advisory Committee meeting occurring after such OCR approval. To the extent either faculty or staff governance groups or unions object to adoption of the new language, the District will promptly report this to OCR, including identification of each group that is objecting and a summary of the objections, and then submit the proposed language to faculty and staff bargaining groups for

negotiations in an attempt to obtain mutual agreement regarding the new proposed language. The District will not allow or agree to make approval of the changes in the procedures contingent on any unrelated issue that may also be the subject of bargaining.

- b. The District will make a good faith effort during any such negotiations to communicate the reasons that federal law requires the modifications. The District will advise the other parties to the negotiations that OCR is available to provide technical assistance regarding federal requirements.
- c. The District shall thereafter report to OCR at 60 calendar day intervals regarding the progress of such negotiations. These reports will include a description of the basis for any ongoing objections by the bargaining group(s), as well as any proposed revisions to the OCR-approved modified AP 4640.
- d. If agreement is reached, District shall promptly report that outcome to OCR and obtain OCR's approval of any revisions.
- e. Within 90 calendar days of obtaining OCR approval of any revisions, the District will confirm to OCR publication and distribution of the modified AP 4640 to personnel, consistent with provision I.b. of this Agreement.
- f. Within 90 calendar days of obtaining the governing and bargaining groups agreement on the new language, the College will confirm to OCR the issuance of notice to students of the modified AP 4640, consistent with provisions I.c. of this Agreement.
- g. Within 90 calendar days of the date this Agreement is executed, the College will report to OCR the effective action it has taken to ensure that the Campus Coordinator executes her responsibilities consistent with the provisions of AP 4640, consistent with provisions II. of this Agreement.

IV. Monitoring

- a. The College and District understand that OCR will not close the monitoring of this agreement until OCR determines that the College and District have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Title IX of the Education Amendments of 1972, at 34 C.F.R. Part 106, which were at issue in this case.
- b. The College and District understand that by signing this Agreement, they agree to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the College and District understand 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 and District have fulfilled the terms of this Agreement and are in compliance with the regulation implementing Title IX, at 34 C.F.R. Part 106, which were at issue in this case.

- c. The College and District understand and acknowledge 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 and District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Dr. Judy Miner
President, Foothill College

04/07/2015
Date

_____/s/_____
Dorene Novotny
Vice Chancellor, Human Resources
and Equal Employment Opportunity
Foothill De Anza Community College District

04/07/2015
Date