

**RESOLUTION AGREEMENT**  
**Emory & Henry College**  
***OCR Case No. 11-16-2175***

Emory & Henry College (the College) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-16-2175 (the Case).

This Agreement does not constitute an admission by the College of a violation of Title VI of the Civil Rights Act of 1964 (Title VI), or any other law enforced by OCR. Rather, OCR acknowledges that the College has been diligently working with it to resolve the allegations raised in the Case, and that the College has proactively undertaken a number of steps to improve upon its response to complaints of race, color, or national origin harassment and/or discrimination. Nonetheless, in order to expeditiously and equitably resolve the Case, the College has agreed to this voluntarily resolution agreement.

**NOTICE OF NON-DISCRIMINATION**

1. By January 30, 2018, the College will review and, if necessary, revise its Notice of Non-Discrimination to ensure that it states that it does not discriminate on the basis of race<sup>1</sup>, color, or national origin (the notice may include other bases), including a specific reference to Title VI (and may include other relevant Federal civil rights statutes). The notice will specify that this requirement not to discriminate extends to all of its programs and activities, including its educational and extracurricular programs and activities, employment and admission as applicable. Additionally, the notice will reinforce that the College will not tolerate retaliation for reporting discrimination or harassment, and will take steps to protect those who wish to report discrimination or harassment anonymously or confidentially. Further, the notice will state that inquiries concerning the application of regulations prohibiting discrimination may be referred to the person(s) designated to coordinate the College's efforts to comply with all aspects of regulations prohibiting discrimination, to an individual charged with investigating allegations of discrimination, or to OCR. The College will ensure that the notice is disseminated in such a manner to apprise students and other interested parties of Title VI's protections from discrimination. The notice will also be posted prominently on the College campus and websites and at various locations throughout the College, as well as in electronic and printed publications of general distribution that provide information to students and employees about the College's services and policies.

**Reporting Requirement:**

By February 1, 2018, the College will submit its Notice of Non-Discrimination to OCR for review and approval. If OCR requires any revisions to the notice, OCR will notify the College of the revisions and the College will submit a revised notice within 14 days of receiving OCR's notification. OCR and the College will repeat this procedure until OCR approves the notice. Within 30 days of receiving final approval of the proposed notice,

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<sup>1</sup> Hereinafter, references only to "race" or "racial" include color and national origin.

the College will provide documentation to OCR (such as a copy of revised materials and publications containing the notice of nondiscrimination, and/or a link to the online version of the materials and publications) demonstrating that the approved notice has been disseminated in accordance with this Agreement. Inserts may be used pending reprinting of the materials and publications.

## **ANTI-HARASSMENT STATEMENT**

1. By January 30, 2018, the College will review and, if necessary, revise its anti-harassment statement to ensure that all College students, parents, faculty and staff receive notice that the College does not tolerate acts of harassment on the basis of race (the statement may include other bases). The statement will encourage any student, faculty, staff, or third party who believes he or she has been subjected to harassment on the basis of race to report the harassment to the College, and will note the College's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member(s) to whom students and parents may report allegations of harassment, including on the basis of race. The statement will indicate the types of support, including any counseling and educational resources, that the College makes available to students, faculty, and staff. The College will include a non-exhaustive list of examples of possible consequences against those found to have engaged in racial harassment. The statement will encourage students, faculty and the College's staff to work together to prevent harassment on the basis of race, and reinforce that the College will not tolerate retaliation for reporting harassment and will take steps to protect those who wish to report harassment anonymously or confidentially or those who participate in an investigation regarding alleged harassment.

### Reporting Requirement:

By February 1, 2018, the College will submit its anti-harassment statement to OCR for review and approval. If OCR requires any revisions to the statement, OCR will notify the College of the revisions and the College will submit a revised statement within 14 days of receiving OCR's notification. OCR and the College will repeat this procedure until OCR approves the statement. Within 30 days of receiving final approval of the proposed statement, the College will provide documentation to OCR (such as a copy of revised materials and publications containing the statement, and/or a link to the on-line version of the materials and publications) demonstrating that the approved statement has been disseminated in accordance with this Agreement.

## **GRIEVANCE PROCEDURES**

1. By March 15, 2018, the College will review and, if necessary, revise its grievance procedures ("Procedures") to ensure that the College provides for the prompt and equitable resolution of complaints of harassment on the bases of race, color, and national origin. As part of and in conjunction with the review of Procedures under this action item, the College will ensure that the Procedures include appropriate cross-references

with other relevant College policies and procedures and are easily understood. The Procedures will include, at a minimum, the following:

- a. notice that the Procedures apply to complaints alleging all forms of race discrimination (including racial harassment) carried out by employees, students, or third parties within the College community;
- b. a clear and easily understood explanation of how and where complaints may be filed, including the name and/or title, office address, e-mail address, and telephone number of the individual(s) with whom to file a complaint;
- c. a statement that all responsible employees are expected to promptly report racial harassment that they observe or learn about;
- d. provisions for confidential reporting, including informing a complainant that the College's ability to respond may be limited in the event of a request for confidentiality;
- e. provisions for adequate, reliable and impartial investigation of complaints, including the opportunity for the complainant and the alleged harasser(s) to present witnesses and evidence;
- f. designated and reasonably prompt time frames for the major stages of the investigative process, including any sanctions process and appeal, as well as the process for extending timelines;
- g. a provision requiring concurrent written notification to both/all parties of the outcome of the investigation and, if applicable, any appeals;
- h. appropriate definitions and examples of what types of actions may constitute race discrimination (including racial harassment);
- i. a statement clarifying that the Procedures apply to: all the College's campuses, administrative offices, and other facilities, programs, and activities, including discrimination that occurs in the context of an employee's provision of aid, benefits or services to students;
- j. provisions notifying students of the availability of interim measures to protect students during the investigation of possible racial harassment and that the College will take steps to ensure, where possible, that such interim measures do not negatively impact the education of any party to the complaint;
- k. a statement that retaliation and retaliatory harassment is prohibited against any individual who files a race discrimination complaint with the College or participates in a complaint investigation in any way, as well as a clear explanation of how retaliation or retaliatory harassment can be reported to the College.

Reporting Requirement:

By March 16, 2018, the College will provide to OCR, for its review and approval, a draft of the Procedures reviewed and/or developed in accordance with this Agreement. If OCR requires any revisions to the draft of the Procedures, the College will make the changes and re-submit a draft of the Procedures within 14 days of receiving OCR's notice of required revisions. Within 30 days of written notification from OCR of its approval of Procedures, the College will provide documentation to OCR demonstrating that the College has adopted and implemented the Procedures, provided written notice regarding

the Procedures for resolving Title VI complaints together with information on how to obtain a copy of the Procedures to all faculty, staff and students. The College, at a minimum, will make this notification through the College website; email messages to faculty, staff and students; as well as by any other additional means of notification the College deems effective to ensure that the information is widely disseminated and easily located. The College will also provide to OCR copies of or a link to all student handbooks and all other publications that contain the Procedures, and a link to all webpages where the Procedures are otherwise located.

2. By March 15, 2018, the College will review and, if necessary, revise all relevant policies, procedures, regulatory webpages, and publications to include the name/title, office address, telephone number, and e-mail address of the individual(s) designated to investigate allegations of discrimination on the basis of race, color, or national origin. The College will ensure that contact information for the investigator(s) is accurate, consistent, and complete in all such materials, and will establish a process to ensure that, when there are changes, the electronic notifications and webpages are updated within 20 days of any change.

Reporting Requirement:

By March 16, 2018, the College will provide a copy of the written notice of the investigator(s) contact information in its policies, procedures, regulatory webpages, and publications to OCR. If OCR requires any edits to the written notice, OCR will notify the College of the edits and the College will submit a revised written notice to OCR. OCR and the College will repeat this procedure until OCR approves the written notice. Within 30 days of OCR's approval, the College will provide documentation to OCR (such as a copy of revised materials and publications containing this information, and/or a link to the on-line version of the materials and publications) demonstrating that the investigator(s) contact information has been disseminated in accordance with this Agreement. Inserts may be used pending reprinting of the materials and publications.

## **RESPONSE TO COMPLAINTS**

1. The College will continue to take all reasonable steps to ensure that students enrolled in the College are not subject to harassment on the basis of race, color, or national origin. To this end, the College will promptly respond to all complaints (both formal<sup>2</sup> and informal<sup>3</sup>) of harassment of students on the bases of race, and all incidents which are known or reasonably should be known to the College. The College will take prompt and effective responsive action reasonably designed to end the harassment; prevent its

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<sup>2</sup> Formal complaints are defined as those that are presented to the College in written form.

<sup>3</sup> Informal complaints include those that are reported verbally to a responsible employee; i.e., an employee who has the authority to take action to redress the harassment; who has been given the duty of reporting incidents of harassment or any other misconduct by students to the appropriate school designee; or whom a student could reasonably believe has this authority or duty.

recurrence; and where appropriate, take steps to remedy the effects of the harassment on the complainant(s) and the larger school community.

Reporting Requirement:

By July 31, 2018 the College will provide documentation to OCR of all informal and formal complaints of harassment on the basis of race made to the College during the preceding school year (XXXX). This documentation will include copies of formal complaints and documentation memorializing informal complaints; a description of the complaint; the College response; and the resolution, if applicable, including the report of any investigation conducted. The College will also provide OCR a copy of any documentary evidence and correspondence to and from the Complainant and the College. If there have been no complaints, the College will so certify that no complaints were made to it on the basis of race.

**CONDUCTING INVESTIGATIONS AND RECORD-KEEPING**

1. By March 15, 2018, the College will ensure that it has a system for documenting, investigating, record-keeping and tracking complaints and incidents of harassment on the basis of race (including reporting of incidents that do not result in the filing of a complaint). At a minimum, this system will include the following:
  - a. a method for documenting all complaints of harassment, whether formal or informal, implicating or involving the victim's race;
  - b. a confidentiality procedure for instances in which the complaining party does not wish to identify herself or himself to the alleged harasser;
  - c. assignment of staff with appropriate training, knowledge, and experience of the procedures for conducting investigations;
  - d. a requirement that the person(s) designated to conduct the investigation will interview and document all relevant witnesses (including the alleged harasser, the student(s) allegedly harassed, and others with knowledge of the incident);
  - e. a requirement that the person(s) designated to conduct the investigation will determine whether the alleged harassment did or did not occur, the identity of the individual who engaged in the prohibited conduct, and the harm to the individual subjected to the harassment, if any;
  - f. a requirement that when resolving complaints of racial harassment, the College will document its factual findings and analysis; including considering the totality of circumstances in its evaluation of the race-based conduct;
  - g. a requirement that the College will implement appropriate interim steps to provide for the safety of the individual(s) alleging harassment and to avoid retaliation;
  - h. a requirement that individuals responsible for receiving reports of harassment and the person(s) designated to conduct the investigation will maintain records of all complaints (formal and informal), and, if applicable, any investigations, interim measures, interview notes, findings (including records of any corrective action taken, such as disciplinary action) and the basis for those findings, for a minimum of two years.

Reporting Requirement:

By March 16, 2018, the College will provide to OCR for review and approval a description of the system for documenting, investigating, record-keeping, and tracking complaints and incidents of harassment on the basis of race and developed in accordance with the requirements of this Agreement. OCR will respond within 30 days. Within 30 days of receiving OCR's approval, the College will provide confirmation that the system is operative.

**TRAINING**

1. By the first day of the 2018-2019 academic year or within sixty (60) days after notice from OCR of its approval of the College's Notice of Non-Discrimination and Grievance Procedures (whichever is later), the College will provide training to its personnel responsible for recognizing and reporting incidents of racial discrimination (including, but not limited to, administrators, campus safety officers, and those who are responsible for overseeing and applying the College's investigative procedures). The training will cover, at a minimum: the Notice of Non-Discrimination and Anti-Harassment statements, the Grievance Procedures; the obligation of staff to report racial discrimination (including racial harassment); how to recognize and identify racial discrimination; the College's responsibilities under Title VI to address such allegations; what constitutes a proper response to a verbal or written report of racial harassment and the relevant resources available, and notice that failure to report and respond appropriately to notice of racial harassment violates the College's policy and may result in the imposition of sanctions; and that retaliation is prohibited against any individual who files a race discrimination complaint with the College or participates in a complaint investigation in any way. The training should also include information on a complainant's option to request confidentiality and available academic counseling or other support services; appropriate methods for responding to a complainant who may have experienced racial harassment; and the impact of racial harassment on complainants who experience it.
2. By September 31, 2018 or within sixty (60) days after notice from OCR of its approval of the College's Notice of Non-Discrimination and Grievance Procedures (whichever is later), the College will provide training to students (for example, through offices such as the Student Life, Housing, and Athletics departments). The training will cover, at a minimum: the Notice of Non-Discrimination and Anti-Harassment statements, the Grievance Procedures; and the College's responsibilities under Title VI to address allegations of racial discrimination (including racial harassment). The training should also include a clear and easily understood explanation of how and where complaints may be filed, including the name and/or title, office address, e-mail address, and telephone number of the individual(s) with whom to file complaint information. It should also include information on the complainant's option to request confidentiality, protection from retaliation, and available academic counseling or other support services.

Reporting Requirement:

At least thirty (30) days prior to the planned training, the College will provide for OCR's review and approval the training materials prepared, including the name(s) and title(s) of the trainer(s) and any handouts or presentations developed to be used as part of the training. OCR will provide comments to be incorporated into the College's training within ten (10) days from receipt; otherwise, the College will proceed as planned with the training materials.

Within twenty (20) days of the completion of the approved training, the College will submit to OCR the date(s) of the training(s) and attendance sheets indicating the names and titles (if applicable) of participants.

## **CLIMATE SURVEY**

1. By December 1, 2017, the College will develop a climate survey process (and/or review its current campus climate survey process) to be conducted annually to assess students' attitudes and knowledge regarding harassment on the basis of race (the survey may address other bases); gather information concerning students' experiences with harassment on the basis of race; determine whether students know when and how to report complaints of harassment on the basis of race; and the effectiveness of steps taken pursuant to this Agreement or otherwise by the College to ensure that its campus is free of harassment on the basis of race. The survey process will be conducted through the administration of a climate survey, which may be accomplished through a written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as the race discrimination investigator(s), should they wish to discuss this issue in person. Additionally, the College will notify students that participation in the survey will be entirely voluntary, and that the survey will be conducted in a manner consistent with applicable law. The College will analyze the results of the climate survey process within sixty (60) days of the date it closes. The analysis will include considering recommendations to address concerns or issues identified through the climate survey, if applicable. If the College will conduct a survey the subsequent school year (2018-2019), the College may utilize the same or similar survey, provided that the survey is updated and reviewed to ensure that it remains current.

### Reporting Requirement:

By December 15, 2017 the College will provide the climate survey to OCR for review and approval. If OCR requires any revisions to the survey the College will make the changes and re-submit a draft of the survey within 14 days of receiving OCR's notice of required revisions. Within 90 days of written notification from OCR of its approval of the survey, the College will provide documentation to OCR that the climate survey has been completed. Within 30 days from the completion of climate survey, the College will submit a report containing its analysis of the survey results to OCR and will include in its analysis any recommendations, and any responsive actions that it plans to take. Upon OCR's request, the College will provide OCR with the raw results of the survey and any

related documentation. The College will submit similar reports to OCR within 30 days after the completion of its climate survey for 2018-2019 school year, if required.

## **STUDENT REMEDIES**

1. By November 15, 2017, the College will notify the Complainant in writing via certified mail to her last known address and email to her email address on file that if she would like to return to the College to XXXX (the Course), she will be allowed to retake the Course at no cost, XXXX. The College will notify the Complainant that this offer is available for the XXXX semesters, so long as the Course is scheduled to be taught during those semesters. If the Course is not scheduled to be taught, the College will provide a list of other similar courses that the Complainant may take instead to satisfy this provision of the Agreement. The College will notify the Complainant that she has until XXXX to opt to take the XXXX course and until XXXX to opt to take the XXXX course. Notwithstanding the foregoing, if Complainant chooses to apply for re-admission, as a full-time student, to the College and re-enrolls, she will remain subject to all ordinary eligibility requirements, tuition, and fees normally associated with enrollment at the College.

### Reporting Requirement:

By December 15, 2017, the College will submit to OCR written verification that it provided the Complainant with notice of her option to retake the Course.

By September 15, 2018, the College will submit to OCR written notification documenting whether the Complainant accepted or rejected the College's offer to allow the Complainant to retake the Course, and a description of actions that the College will take, if any, to enable the Complainant to execute that option.

2. The final grade the Complainant receives as a result of retaking the Course, if the Complainant accepts the College's offer to retake it, will replace and be substituted for the final grade the Complainant received in the Course during the XXXX.

### Reporting Requirement:

Within 30 days of the College's posting of the Complainant's new grade in the Course, if the Complainant accepts the College's offer to retake it, the College will submit to OCR written notice of the Complainant's final grade.

## **MONITORING AND SELF-ASSESSMENT OF PROGRAM EFFECTIVENESS**

By July 14, 2018, the College will develop a monitoring system to assess the effectiveness of its efforts to prevent and address racial harassment and to promote a non-discriminatory climate. The assessment may (but is not required to) include:

