Resolution Agreement
Jamestown College
OCR Docket #05-13-2001

Jamestown College (College) (d.b.a. University of Jamestown) submits the following Agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve OCR Docket # 05-13-2001, and to ensure its compliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin with respect to the allegations raised in the above-referenced complaint.

By entering into this Agreement, the College does not admit any violation of Title VI and OCR has made no findings with regard to the allegation of race discrimination raised in the complaint. Nothing contained in this Agreement shall be considered, construed as or used as an admission of wrongdoing, liability, statutory or regulatory violation, or any other illegal or improper act by the College.

The College agrees to take the following actions:

Definition of Racial Harassment

As used in this Agreement, the term "harassment" includes the use of derogatory language (including racial epithets), intimidation, and threats, unwanted physical contact and/or physical violence, and the use of derogatory language and images in graffiti, pictures or drawings, notes, e-mails, postings on internet and social networking sites and/or phone messages, based on race, color, or national origin. The terms "harassment" and "hostile environment" as used in this Agreement, are governed by federal and state law; federal law takes precedence over state law.

Action Steps:

1. The College will take all steps necessary to ensure that students enrolled in the College, as well as faculty, administrators, and all College personnel are not subjected to discrimination, including harassment, on the basis of race, color, or national origin. To this end, the College will promptly and impartially investigate all incidents of discrimination/harassment on the basis of race, color, or national origin pertaining to students, faculty, administrators, and staff, of which it has notice, and will take appropriate disciplinary action against students, faculty, administrators, and all staff who are found to have engaged in discrimination/harassment.

Anti- Discrimination and Harassment Policy

2. The College has demonstrated that it has developed and published in the "Jamestown College Student Handbook, 2013-2014" a notice of nondiscrimination stating that the College does not discriminate on the basis of race, color and national origin in its programs or activities. The notice specifically prohibits retaliatory acts protected by Title VI. The statement encourages any student, faculty, administrator, or staff who believes he

or she has been subjected to discrimination, harassment or a hostile environment to report it to the College and it notes the College's commitment to conducting a prompt investigation. The statement warns that students, faculty, administrators, and all staff found to have engaged in acts of discrimination, harassment or other acts that create a hostile environment, will be promptly disciplined and makes clear that such discipline may include, if circumstances warrant, discipline up to and including suspension, expulsion and termination. The statement encourages students, faculty, administrators, and staff to work together to prevent acts of discrimination/harassment of any kind.

REPORTING REQUIREMENT: By June 2, 2014, the College will submit its notice of nondiscrimination, updated to include the telephone number and email address of the individual responsible for the College's Title VI compliance as required by Item #2, to OCR for review and approval.

3. Within fifteen (15) calendar days of OCR's approval of the notice, the College will issue the nondiscrimination statement to all College students, faculty, administrators, and staff, including security officers, residence hall and coaching staff. Additionally, the nondiscrimination statement will also be printed in the College's newspaper, faculty handbook, admission booklet, and will be posted in prominent locations in the residence halls and employee/faculty department offices, as well as published on the College's website.

REPORTING REQUIREMENT: Within thirty (30) calendar days of OCR's approval of the nondiscrimination notice, the College will submit documentation that it has implemented Item #3, including a copy of the email to students and employees including the nondiscrimination statement; a copy of any admission or recruitment materials amended to include the nondiscrimination statement and a copy of the staff handbooks in which the statement is published and a link to the adopted statement on its website.

<u>Anti-Discrimination and Harassment: Policies and Procedures</u>

4. The College has demonstrated that it has developed anti-discrimination and anti-harassment policies and procedures to ensure that persons subject to discrimination and harassment understand how to report any such conduct so that the College can timely and adequately address and respond promptly and appropriately to reports of discrimination and/or harassment on the basis of race, color, and national origin, or other status with respect to which discrimination would be unlawful. The anti-discrimination and anti-harassment policies include:

    a. A statement setting forth the College's commitment to having a school environment free from all discrimination and/or harassment on the basis of race, color and national origin. Such statement must explain that the College prohibits discrimination and/or harassment in the College environment, including all

academic, extra-curricular and College-sponsored activities whether off or on campus. The statement will encourage students to immediately report incidents of discrimination and/or harassment. The statement will emphasize that all employees, including faculty, staff, administrators, residence hall staff, security officers and coaching staff are required to promptly report incidences of harassment. The statement will specify that the College will investigate formal and informal complaints of discrimination and/or harassment.

b. Specific examples of the type of conduct and behavior that is prohibited by the policy, including examples of staff-to-student and student-to-student conduct.
c. Identification of the kinds of activities and sites where prohibited conduct could occur.
d. An explanation of how to report discrimination and/or harassment and/or file a complaint (formally or informally).
e. The specific steps the College takes in conducting investigations of reported incidents, including review of statements obtained from either party, interviews with both parties, interviews with witnesses as appropriate, and review of relevant documentary evidence.
f. A description of the College's informal and formal complaint procedures, including a Complaint Form, prompt timeframes for the College's investigation of a complaint and a requirement that written notice of the outcome be provided to the parties.
g. Specific information as to the name or title and contact information (including office address, email address and telephone number) for the College employee(s) responsible for receiving the Complaint Form and/or investigating reports of discrimination and/or harassment. This information shall include an Alternate Coordinator, in the event that the designated Coordinator has a conflict of interest or is the complainant or alleged discriminator in a complaint.
h. A recommendation that College staff who observe acts of discrimination and/or harassment intervene to stop the discrimination and/or harassment, unless circumstances would make such intervention dangerous.
i. The interim and permanent steps the College will take to stop the discrimination and/or harassment, remedy the discrimination and/or harassment and prevent recurrence including specific discussions with the complainant about academic, extracurricular activities, housing and on-campus dining arrangements of the parties to determine if adjustments in schedules or housing are necessary and explain that any adjustments made will be designed to minimize the burden on the complainant's educational program.
j. The prohibition of actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of harassment or the participation in proceedings applies to third parties as well as accused students.
k. Identification of the means the College will use to investigate incidents of discrimination and/or harassment, including but not limited to the following:

i. the various steps the College will take to conduct adequate, reliable and impartial investigations of reported incidents;
ii. an assurance that the College will take action to stop the discrimination and/or harassment, remedy the discrimination and/or harassment, and prevent recurrence; and
iii. the factors considered by the College for determining whether a hostile environment exists.

l. A notice that the procedures apply to complaints of discrimination and/or harassment raised by employees, students, or third parties;
m. A statement that evidence submitted in the investigation will be reviewed using a preponderance of the evidence standard;
n. An assurance that the College will keep the complaint and investigation confidential to the extent reasonable;
o. An assurance that the College will take steps to prevent recurrence of any discrimination and/or harassment, with examples of the range of possible disciplinary sanctions and remedies available to ameliorate the discriminatory effects on the complainant and others.

REPORTING REQUIREMENT: By June 2, 2014, the College will submit its anti-discrimination and harassment policies and procedures, updated to include the following:

a. Telephone number and email address of the individual responsible for receiving the Complaint Form and/or investigating reports of discrimination and/or harassment;
b. Notice that medical and counseling referrals that are available to complainants are also available to accused students and witnesses; and,
c. A requirement that the designated College employee(s) document all reports of incidents of discrimination and/or harassment and that the College establish a protocol for recordkeeping.

5. Within fifteen (15) calendar days of written notification of OCR's approval of the updated policy and procedures developed in accordance with Item #4 of the Agreement, the College will implement the policy and procedures and will issue to all College students, administrators, faculty, and staff, including residence hall staff, security officers and coaching staff, a statement that the College has adopted the updated anti-discrimination and anti-harassment policy and procedures, which will be widely published, including by printing in the College's newsletter, student and faculty/staff handbooks and on the College's website and posting in all College schools and residence halls.

REPORTING REQUIREMENT: Within thirty (30) calendar days of OCR's approval of the procedures referenced above, the College will provide OCR with documentation that it has implemented Item # 5, including a copy of the written notices issued to students, administrators, faculty and staff, available printed publications, and a link to the adopted procedures on its website.

6. The College has demonstrated that it has designated a qualified employee to serve as the Age Discrimination Act and/or Title IX and/or Section 504 Coordinator. This individual will coordinate the College's effort to comply with all state and federal anti-discrimination laws. The College published the name or title of the individual's office address, email address, and telephone number so that individuals with concerns or questions will know who they may contact to address such concerns. The College will ensure that the individual is adequately trained in his/her duties and responsibilities

REPORTING REQUIREMENT: By September 30, 2014, the College will submit documentation to OCR demonstrating that the Age Discrimination Act and/or Title IX and/or Section 504 Coordinator has been trained, as required by Item # 6.

Staff and Student Training

7. The College provided OCR a copy of the Powerpoint® presentation it delivered on August 21, 2013, to all students, School faculty, staff, administrators, residence hall staff and athletic department personnel and other College personnel charged with supervising students on the policies and procedures referenced in Item #5 of this Agreement. The training stressed respect and tolerance of others. The College reminded students, faculty and college personnel of its commitment to have a College environment free from all unlawful discrimination and harassment and explained to students what they should do if they believe they or other students are being subjected to unlawful discrimination or harassment. The program included a review of the College's anti-discrimination and anti-harassment policies and procedures and information regarding disciplinary sanctions for violations of those policies and the policy prohibiting retaliation. The College ~~will~~ distributed written materials during the program containing relevant information.

8. By September 1, 2014, and annually thereafter the College will provide the training to all students, School faculty, staff, administrators, residence hall staff and athletic department personnel and any other College personnel charged with supervising students.

REPORTING REQUIREMENT: By September 30, 2014, the College will provide OCR with a report demonstrating implementation of Item #8. In particular, the College will provide documentation indicating the date of the training, names, titles and credentials of the presenters, topics covered during the programs; the amount of time spent on each topic; copies of the materials used or distributed in the training and a sign-in sheet with the names and titles of the staff who attended the training. The College will include the names and titles of all employees who were not in attendance and an explanation for their absences as well as information as to how those not in attendance will receive training.

9. By April 1 2014, the College will provide training to the individual responsible for the College's Title VI compliance and to all College staff who are directly involved in

processing, investigating and/or resolving complaints or other reports of race, color or national origin harassment and/or discrimination, including harassment complaints, any counselors or other College personnel who are likely to receive reports of discrimination and/or harassment, and the employees responsible for ensuring the College carries outs its responsibilities under state and federal law. By September 1, 2014, and annually thereafter, the College will provide training to new staff involved in processing, investigating and/or resolving complaints or other reports of race, color or national origin harassment and/or discrimination, including harassment complaints, any new counselors or other College personnel who are likely to receive reports of discrimination and/or harassment, and new employees responsible for ensuring the College carries outs its responsibilities under state and federal law. The training will review the College policies and procedures referenced in Item #4 of this Agreement and include instruction on how to conduct and document adequate, reliable, and impartial discrimination and/or harassment investigations, including the appropriate legal standards to apply in such investigations, as well as the policy prohibiting retaliation.

REPORTING REQUIREMENT: By September 30, 2014, the College will provide OCR with a report demonstrating implementation of Item # 9. In particular, the College will provide documentation indicating the date of the training, names, titles, and credentials, of the presenters, topics covered during the programs; the amount of time spent on each topic; copies of the materials used or distributed in the training and a sign-in sheet with the names and titles of the staff who attended the training. Also include the names and titles of all employees who were required to attend, but did not, and an explanation for their absences.

Student Remedies:

10. The College and Student A, Student B, Student C, Student D, Student E and Student F have represented to OCR that they entered into separate binding resolution agreements.

11. By March 14, 2014, the College will clear Student A's, Student B's, Student C's, Student D's, Student E's, and Student F's financial accounts at the College, clearing any financial holds and will send a certified letter to each of the students notifying them that their financial accounts have been cleared and that transcripts are available for release. In the letter, the College will provide information necessary for each student to request a transcript and notify each student that the College will provide one (1) certified transcript to each student free of charge.

REPORTING REQUIREMENT: By April 1, 2014, the College will provide OCR with a report demonstrating implementation of Item #11. In particular, the College will provide copies of the cleared financial accounts of Student A, Student B, Student C, Student D, Student E and Student F and copies of the notice provided to them regarding changes to their financial accounts and request of transcripts.

12. By March 14, 2014, the Head Football Coach will write and send by certified mail a letter to Student A, Student B, Student C, Student D, Student E, and Student F summarizing their athletic abilities while on the team.

REPORTING REQUIREMENT: By April 1, 2014, the College will provide OCR a copy of the certified mail receipt associated with each letter the Head Football Coach sent to Student A, Student B, Student C, Student D, Student E, and Student F, in fulfillment of Item # 12.

Data Maintenance

13. The College will maintain the following data during the pendency of OCR's monitoring of this Agreement, and it will provide the following information covering the 2013-2014 academic year to OCR by June 2, 2014:

a. All written reports and a written narrative describing all oral reports of incidents involving allegations of discrimination or harassment based on race, color or national origin;
b. A narrative of all actions taken in response to the reports, including any written documentation;
c. A copy of all disciplinary sanctions issued to students and staff for violations of the policies and procedures described in Items # 2 and # 4;
d. Documentation demonstrating any remedial efforts offered and provided to the person subjected to discrimination or harassment, such as counseling, tutoring or any other appropriate services; and
e. A narrative of all action taken to prevent recurrence of the discrimination or harassment, including any written documentation.

The College 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 College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview employees and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI , 42 U.S.C. § 2000D, Part 100 which were at issue in this case.

The College understands that OCR will not close the monitoring of this agreement until OCR determines that the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI , 42 U.S.C. § 2000D, Part 100 which 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 or judicial proceedings to enforce the specific terms and obligations of this Agreement, OCR shall give the College written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of Jamestown College:

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Robert S. Badal
President
University of Jamestown

Date