

**Resolution Agreement  
Mercer County Community College  
Case No. 02-15-2290**

In order to resolve the compliance concerns identified in Case No. 02-15-2290, Mercer County Community College (the College) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106.

**Action Item 1: Title IX Coordinator & Nondiscrimination Notice**

By November 30, 2015, the College will take steps to clearly and adequately notify all new and existing students and employees of the name and/or title, office address, telephone number, and electronic mail (e-mail) address of the person(s) designated to coordinate its efforts to comply with Title IX. The College will also revise its existing nondiscrimination notice(s) to state that inquiries concerning the application of Title IX and its implementing regulation may be referred to the College's Title IX Coordinator or to OCR, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.9; and, ensure that the notice of nondiscrimination is published in each announcement, bulletin, catalog, or application form which it makes available to applicants for employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient.

**Reporting Requirement:** By October 15, 2015, the College will provide to OCR, for review and approval, a copy of its revised notice of nondiscrimination. Within 30 days of OCR's approval of the revised notice of nondiscrimination, the University will provide to OCR a list of the titles of the publications in which the notice of nondiscrimination and contact information for the Title IX Coordinator appear (e.g. Student Handbook, Employee Handbook, website) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice and contact information for the Title IX Coordinator. Inserts may be used pending reprinting of these publications.

**Action Item 2: Grievance Procedures**

By December 31, 2015, the College will revise its grievance procedures that address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence) to ensure that these procedures provide for the prompt and equitable resolution of complaints by students and employees who allege all forms of discrimination on the basis of sex. The procedures will include at a minimum:

- notice of the procedures and how to file a complaint that is easily understood, easily located and widely distributed; such notice must include the contact information (name or title, office address, email address and telephone number) for the individual with whom complaints may be filed;

- notice that the procedures apply to complaints alleging all forms of sex discrimination (including sexual harassment, sexual assault, and sexual violence) against employees, students, or third parties;
- definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault and sexual violence);
- a statement that responsible employees are expected to promptly report sexual harassment that they observe or learn about;
- a statement that the University has an obligation to promptly investigate to determine what occurred and then to take appropriate steps to resolve the situation when it knows or reasonably should know about possible discrimination, regardless of who reports the discrimination, and regardless of whether the affected student(s) chooses to cooperate or proceed with a formal complaint;
- provisions for the prompt, adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence;
- provisions ensuring that the parties are afforded similar and timely access to any information used at the hearing;
- a statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination, sexual harassment, sexual assault and sexual violence complaints and making findings related to the allegations;
- clarification that any informal resolution mechanism set forth in the procedures will only be used if the parties voluntarily agree to do so, that the complainant should not be required to resolve the problem directly with the respondent, and that there will be instances when the informal resolution mechanism may be inappropriate (e.g., mediation is prohibited in cases of sexual assault, and those involving a student complaining of sexual harassment against an employee in a position of authority over the student); and that the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process;
- designated and reasonably prompt timeframes for the major stages of the grievance process that apply equally to the parties of the complaint, including the investigation, complaint resolution, and appeal processes, if any;
- an assurance that victims will be made aware of their Title IX rights and available resources, such as counseling, the local rape crisis center, and their right to file a complaint with a local law enforcement agency;
- a provision notifying complainants that they may pursue a complaint with the University and the police simultaneously; and notifying them that the University may need to briefly suspend the fact-finding aspect of a Title IX investigation while the law enforcement agency is in the process of gathering evidence, and that the University will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, or within 10 days, whichever is sooner;
- a provision indicating that the College will proactively implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the campus community and the avoidance of retaliation;
- provisions indicating the availability of interim measures during the College's investigation of possible sexual harassment (such as how to obtain counseling and

academic assistance in the event of a sexual assault, and what interim measures can be taken if the alleged perpetrator lives on campus and/or attends classes with the victim), and that such interim measures will not disproportionately impact the complainant;

- an assurance that the complaint and investigation will be kept confidential to the extent possible;
- where the procedures allow the parties to have a lawyer or other representative at a hearing, a statement that both parties will have an equal opportunity to have lawyers/representatives present and that any restrictions on the lawyers/representatives' ability to speak or otherwise participate will be applied equally to both parties;
- written notice to both parties of the outcome;
- notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals;
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker;
- an assurance that steps will be taken to end discrimination and harassment, eliminate any hostile environment, to prevent its recurrence, and remedy the discriminatory effects on the victim(s) and others, if appropriate;
- examples of the range of possible disciplinary sanctions, and the types of remedies available to victims and others; and
- a statement that retaliation is prohibited against any individual who files a sex discrimination complaint under Title IX or participates in a complaint investigation in any way.

### **Reporting Requirements**

- a) By October 31, 2015, the College will provide its revised grievance procedures to OCR for review and approval.
- b) Within thirty (30) days of the College's receipt of OCR's approved revised grievance procedures, the College will provide OCR with documentation to substantiate that it has formally adopted the OCR-approved revised procedures; updated all printed publications and on-line publications with the revised documents (inserts may be used pending reprinting of these publications); and electronically disseminated the revised grievance procedures to students and employees. This documentation will include evidence of the electronic dissemination of the revised grievance procedures to students and employees, a list of the titles of the publications in which the information appears (e.g. college catalog, website, student handbook) as well as a copy of any such publications or a link to an on-line publication containing the revised grievance procedures; or if not yet finalized, a copy of the insert for printed publications.

### **Action Item 3: Complaint Reviews**

By January 31, 2016, the College will review all complaints filed during and since academic year 2014-2015, to determine whether each complaint was handled consistent with the criteria set forth in the revised procedures described in Action Item 2, above. The College will take

appropriate action to address any problems identified in the manner in which these complaints were handled; including providing appropriate remedies that may still be available for the complainants in these cases, such as counseling or academic adjustments. These reviews will carefully scrutinize whether the College failed to investigate a complaint of which it had notice; whether the College failed to promptly and adequately investigate a complaint or report of harassment; whether the College provided written notice of the outcome of the complaint investigation to the alleged victim and the alleged harasser; and, whether the College took steps to prevent the recurrence of harassment and to address any hostile environment created by the harassment.

**Reporting Requirement:** By January 31, 2016, the College will provide to OCR a report of its review of complaints filed during and since academic year 2014-2015. At a minimum, this report will identify any complaints that were not handled consistent with the criteria set forth in Action Item 2, above; and, will indicate the action that will be taken to address any problems identified.

#### **Action Item 4: Training**

By January 30, 2016, and annually thereafter, the College will provide training to its Title IX Coordinator, any other coordinators, and any College officials and administrators who will be directly involved in processing, investigating and/or resolving complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence), or who will otherwise coordinate the College's compliance with Title IX. The College's training will specifically cover the College's revised grievance procedures for Title IX complaints, and will include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations. The training will also provide attendees with instruction on recognizing and appropriately addressing allegations and complaints pursuant to Title IX. The training will include information concerning what constitutes sex discrimination (including sexual harassment, sexual assault, and sexual violence), and the College's responsibilities under Title IX to address allegations of sex discrimination (including to take interim measures).

By January 30, 2016, and annually thereafter, the College will also provide training to all employees likely to witness or receive reports of sexual violence, including professors, College law enforcement or security personnel, administrators, counselors, general counsel, athletic coaches, and health personnel. This training should include practical information about how to prevent and identify sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for re-victimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including the use of nonjudgmental language; the impact of trauma on victims; and, as applicable, the person(s) to whom such misconduct must be reported. The training should also explain responsible employees' reporting obligations, including what should be included in a report and any consequences for the failure to report; and the procedure for responding to students' requests for confidentiality, as well as provide the contact information for the school's Title IX coordinator.

**Reporting Requirements:** By February 15, 2016, the College will provide documentation to OCR demonstrating that it provided training in accordance with Action Item (4) above. The documentation will include, at a minimum, the name(s) and credentials of the trainer(s), the date(s) and time(s) of the training(s), the names and positions/titles of staff in attendance, confirmation of whether all relevant employees have been trained (and if not, how many remain), and copies of any training materials distributed.

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 IX, at 34 C.F.R. §§106.8 and 106.9, which were at issue in this case. The College also understands that by signing this agreement, it agrees to provide data and other information in a timely manner. Further, the College understands that during the monitoring of this agreement, 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 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 106.9, 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 (34 C.F.R. §§ 100.9, 100.10), or judicial proceeding to enforce this agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

October 13, 2015

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Date

/s/

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Mercer County Community College