

RESOLUTION AGREEMENT

Virginia Commonwealth University OCR Case Nos. 11-13-2288 and 11-14-2038

Virginia Commonwealth University (the University or VCU) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-13-2288 and Case No. 11-14-2038. This Agreement does not constitute an admission by the University of any violation of Title IX of the Education Amendments of 1972 (Title IX) or any other law enforced by OCR. Full implementation of this Agreement by the University resolves the allegations in OCR Case No. 11-13-2288 and Case No. 11-14-2038.

1. The University has revised its current Student Sexual Misconduct Policy (hereinafter "Policy") to clarify that sex-based harassment of one student by another student is a form of sex discrimination that may be a violation of Title IX.
 - a. The University included in the Policy the definition of sex-based harassment, reviewed and approved by OCR, as a separate offense from sexual harassment and sexual misconduct:

"Sex-based harassment: Unwelcome verbal or physical conduct based on sex or sex-stereotyping, that is sufficiently serious (severe, persistent or pervasive) to deny or limit education benefits or opportunities. Examples of sex-based conduct may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic for their sex, or for failing to conform to stereotypical notions of masculinity and femininity."
 - b. For the purpose of notifying members of the University community that sex-based harassment is prohibited under the Policy, the title of the Policy has been changed to: Title IX Student Sexual Harassment and Sexual Misconduct Anti-Discrimination Policy and Procedure.
 - c. This revised Policy was posted on the University's policy library website on March 19, 2014.
2. The University will revise its Policy on Prohibition of Sexual Harassment to ensure that it provides for the prompt and equitable resolution of complaints alleging sexual harassment other than peer sexual harassment.

Both the Policy on Prohibition of Sexual Harassment and the Student Sexual Misconduct Policy and Procedure will, at a minimum, include the following provisions:

- a. accurate definitions of various conduct of a sexual nature including sexual harassment, sexual assault, and sexual misconduct;
- b. procedures for adequate, reliable, prompt, and impartial investigation, hearing (when appropriate), and appeal (when appropriate) of all complaints, which
 - i. specify time frames for each major stage of the procedure;
 - ii. include the equal opportunity for the parties to access, review, and present witnesses and other evidence;
 - iii. emphasize the decision-maker's independent obligation to identify witnesses, seek evidence, and ask questions of the parties and witnesses when resolving complaints of sex-based harassment; and
 - iv. require coordination and effective sharing of information in Title IX matters, among the Office of Institutional Equity, Office of Student Affairs, Integrity and Compliance Office, University police, and the Threat Assessment Team.
- c. notice to all members of the University community of the grievance procedures that apply to different types of complaints of sex discrimination by employees, students, or third parties;
- d. a statement that responsible employees are expected to promptly report sexual harassment that they observe or learn about;
- e. a statement that neither mediation nor an informal process will be used if a complaint involves allegations of sexual assault;
- f. the name or title, office address, e-mail address, and telephone number of the individual(s) with whom to file a complaint and of those responsible for investigating complaints of sexual harassment under the grievance procedures, taking appropriate interim measures during the grievance process, seeking disciplinary action against the accused (where appropriate), and handling appeals;
- g. a statement that information learned as a result of the investigation, including the complainant's or witness's identity, will be confidential, and revealed only on a need-to-know basis;
- h. a statement, consistent with the April 4, 2011, Dear Colleague Letter on Sexual Harassment and Sexual Violence, about the University's obligation under Title IX with regard to reports of possible sexual harassment by or

about a student who wishes to remain anonymous or does not want the University to take further action on the report;

- i. provisions for the investigation of reports of sexual harassment when a student does not choose to proceed with the complaint process;
- j. an assurance that the University will take steps reasonably calculated to prevent recurrence of any sexual harassment, with examples of the range of possible disciplinary sanctions, and will remedy the effects of the harassment or a hostile environment on the victim(s) and others who may have been impacted by the hostile environment, with examples of the types of remedies available to victims and the steps the University may take beyond remedies for the victim to address a hostile environment; and
- k. an explicit prohibition against retaliation that clarifies that allegations of retaliation should be brought to the individual(s) designated to receive such complaints and will be investigated by the University under the same processes and standards outlined in the Policy and/or Guidelines.

Reporting Requirements for Provision 1 and 2:

Within 45 days of the date of this Agreement, the University will submit a draft of the revised Policies to OCR for review and approval. Within 30 days of OCR's approval of the revisions, the University will finalize the Policies and provide OCR with a copy of each. If there are any delays in adoption of the Policies, the University shall provide an explanation to OCR.

- 3. Within 30 days of finalizing the Policies, the University will:
 - a. Post the revised Policies on the university's policy library website (<http://www.assurance.vcu.edu/policylibrary.html>), the Office of Judicial Affairs and Academic Integrity website, the Wellness Resource Center website, and the University Counseling Services website; and
 - b. Notify students, faculty, and staff via email of the adoption of the revised Policies and provide a link to the revised Policies.
- 4. The University shall publish the revised Policy and Guidelines in the next regularly scheduled publication of the "VCU Insider" student handbook.

Reporting Requirements for Provisions 3 and 4:

Within 30 days of finalizing the revised Policies, the University shall provide OCR with links to web pages where the revised Policies are posted, a copy of the email notifying the University community of the revised Policies, and the projected publication date of the next "VCU Insider" student handbook. When the handbook is published, the University will immediately provide OCR a copy of the handbook or the link to access it on the University's website.

5. Within 45 days of finalizing the revised Policies, the University will provide training on its provisions, including confidentiality and retaliation, to all faculty and administration of the Business School, VCU's Title IX Leadership Team, and any other relevant staff and students identified by the University.
6. The University will ensure that individuals responsible for investigating complaints filed under Title IX will receive training from an individual(s) with expertise in both investigating complaints filed under Title IX in the postsecondary education context and with interviewing witnesses who may be the victims of sexual harassment or violence. These individuals will include but not be limited to members of the Title IX Leadership Team comprised of:
 - a. the University-wide Title IX coordinator
 - b. the Deputy coordinator for student-employee issues
 - c. the Deputy coordinator for students
 - d. University Human Resources staff
 - e. Members of the University Police, including the Chief
 - f. The University Athletics representative for Title IX

Reporting Requirements for Provision 5 & 6:

Within 15 days prior to each of the trainings, the University will provide OCR with a copy of the training agenda, the name and qualifications of the person conducting the training, and copies of any materials to be distributed at the training, for review and approval. Within 15 days after the completion of the training, the University will provide OCR with a copy of the sign-in sheet from the training, and (if necessary) a description of the University's plans for ensuring that training is provided to any individuals who were unable to attend the session.

7. The University will periodically provide training on
 - a. the revised Policies to all University faculty, administrators, and the Title IX Leadership Team, and
 - b. investigative training to individuals responsible for investigating complaints filed under Title IX.

Reporting Requirements for Provision 7:

Within 30 days of signing of this Agreement, the University will provide OCR with a plan for periodic training on its Title IX policies and procedures, and investigative training for the individuals referenced in Provision 7, for review and approval. Within 15 days prior to the first periodic training, the University will provide OCR with any materials to be distributed at the training, for review and approval. Within 15 days after the first periodic training referenced in this reporting requirement, the University will provide OCR with a copy of the sign-in sheet from the training.

8. The University will develop a detailed plan (Plan) for coordination and effective sharing of information in Title IX matters, among the Office of Institutional Equity, Office of Student Affairs, University police, Integrity and Compliance Office, and the Threat Assessment Team, and any other offices at the University that may have information relevant information to Title IX investigations. The Plan may include, but not be limited to, coordination and information sharing initiatives currently being implemented by the University. Each item in the Plan will include time frames for implementation and the title and contact information for individual(s) involved in implementing the item.

Reporting Requirements for Provision 8:

Within 30 days of the date of the Agreement, the University will submit a draft of the coordination plan referenced in Provision 8, for OCR's review and approval. Within 30 days of OCR's approval of the coordination plan, the University will distribute the plan to staff in the Office of Institutional Equity, Office of Student Affairs, University police, Office of General Counsel, Integrity and Compliance Office, and the Threat Assessment Team. The University will begin implementing the plan in conjunction with its revised policies, immediately upon distribution.

9. Within 45 days of the training referenced in Provisions 5 and 6, the University will review all complaints investigated under the University's Title IX policies and procedures during the time period of August 15, 2012 through January 1, 2014 to ensure these investigations met the requirements of Title IX. In addition to a general evaluation of the sufficiency of the investigations, this review will address whether the investigative report and underlying documentation include the following:
 - a. Information to support witness credibility determinations made by the investigator;
 - b. A review of any documentation considered in addition to interviews; and
 - c. A determination as to whether discrimination or harassment, or related retaliation, has occurred.

If any investigation did not meet the requirements of Title IX, the University will re-investigate the issue and, if necessary, provide the complaining party with appropriate remedies.

Reporting Requirements for Provision 9:

Within 15 days of the conclusion of the complaint review, the University will submit a report to OCR for review and approval detailing the University's conclusions from its review and outlining the actions the University will take to remedy any deficiencies in the investigative process in specific complaints, if necessary. Within 10 days of OCR's approval, the University will take the appropriate remedial steps and provide OCR with documentation that it has done so.

- 10. By August 15, 2014, the University will provide OCR copies of investigative files from Title IX matters investigated during the period from January 1 to August 1, 2014, including all determination letters.

Reporting Requirements for Provision 9:

Upon receipt of this information OCR will review and provide feedback to the University on whether these investigations were legally sufficient under Title IX. For any investigations that were insufficient, within 30 days of receiving OCR feedback, the University will reinvestigate and provide appropriate remedies. Within 10 days of completion of any reinvestigation or provision of a new remedy, the University will provide OCR with documentation of its actions.

The University understands that OCR will not close the monitoring of this agreement until OCR determines that the University has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. Part 106, which was at issue in this case. The University 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 University understands that during the monitoring of this agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. Part 106, which was at issue in this case.

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

By: /s/
Dr. Michael Rao, President
Virginia Commonwealth University

Date: 4/23/2014