

**Resolution Agreement**  
**The Pennsylvania State University**  
**OCR # 03146001**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), and The Pennsylvania State University (the University) enter into this Agreement to resolve the above-referenced compliance review. The University assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, at 34 C.F.R. Part 106 (Title IX), which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance from the Department.

- A. Processing of Sexual Harassment Complaints**
- 1) The University<sup>1</sup> will provide OCR a list of all complaints of sexual harassment that the University resolved during the 2017-18 and 2018-19 academic years.<sup>2</sup> The list will include the date of the alleged incident, the date the complaint was received, the nature of the alleged conduct, the identity of the parties (i.e. whether the respondent and complainant are students, employees, or third parties), the date of the notice of outcome to the parties, and any findings of responsibility and associated sanctions. The University will also make individual files from the 2017-18 and 2018-19 academic years available at OCR's request.
  - 2) For cases that resolve during the 2019-20 and 2020-21 academic years, the University will provide OCR with the following:
    - a. a list of all complaints of sexual harassment that the University resolved during the preceding academic year. The list will include the date of the alleged incident, the date the complaint was received, the nature of the alleged conduct, the identity of the parties (i.e. whether the respondent and complainant are students, employees, or third parties), the date of the notice of outcome to the parties, and any findings of responsibility and associated sanctions.
    - b. Electronic copies of the complete case files corresponding with each resolved complaint. "Case files" shall mean the information required by the Record-Keeping Provisions in Section C of this Agreement. The data will be produced and organized as individual files, with all relevant

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<sup>1</sup> Unless stated otherwise, "University" throughout this document shall mean University Park and all Commonwealth Campuses of The Pennsylvania State University.

<sup>2</sup> For purposes of this Agreement, "academic year" shall mean the start of the Fall semester to the start of the next Fall semester.

documents for an incident grouped in one discretely labeled electronic location.

**Reporting Requirements:**

Within 60 days of signing this Agreement, the University will provide OCR with the aforementioned lists of cases resolved during the 2017-18 and 2018-19 academic years.

Within 60 days of the close of the 2019-20 academic year, the University shall deliver the aforementioned list of complaints resolved the preceding year, as well as copies of all case files associated with cases that resolved during the preceding year, to the Department. These items will be produced in electronic format.

Within 60 days of the close of the 2020-21 academic year, the University shall deliver the aforementioned list of complaints resolved the preceding year, as well as copies of all case files associated with cases that resolved during the preceding year, to the Department. These items will be produced in electronic format.

If OCR concludes that any of the individual case files described herein indicate that the University did not appropriately respond to an allegation of sexual harassment, OCR shall provide notice of these concerns to the University, and the University will promptly remedy the concerns identified by OCR. The University will also promptly provide information regarding the resolution of any such concerns to OCR as requested.

**B. Title IX Policies and Procedures**

Within 90 days of signing this Agreement, the University will review and draft proposed revisions to its policies prohibiting sex discrimination, including sexual harassment, and its procedures for responding to complaints of sexual harassment, including but not limited to University Policy AD 85 (AD 85), Student Title IX Report Procedures, Code of Conduct & Student and Student Organization Conduct Procedures (Code of Conduct), and information on the University’s website, including webpages for the Office of Sexual Misconduct Prevention and Response (OSMPR), the Affirmative Action Office (AAO), the Office of Student Conduct (OSC), the Office of Ethics and Compliance, and other offices responsible for processing complaints of sexual harassment (hereinafter collectively referred to as Title IX Policies and Procedures). The University will ensure that its Title IX Policies and Procedures are legally compliant, cross-referenced, linked, internally consistent, and do not contain conflicting or contradictory information. The University will ensure that its Title IX Policies and Procedures are widely disseminated to all students, faculty, staff, and any other persons who work with Youth Participants, as discussed in Section F below. The revised Title IX Policies and Procedures will include, at a minimum:

- 1) A notice to students and employees of the University’s Title IX complaint procedures, including where complaints may be filed.

- 2) A description of the application of the procedures to complaints filed by students or on their behalf alleging discrimination or sexual harassment carried out by students, employees, or third parties.
- 3) Provisions for ensuring the adequate, reliable, and impartial investigation of complaints, including the opportunity for both the complainant and respondent to present witnesses and other evidence, as well as notice to parties of the outcome of the complaint and the outcome of subsequent appeals.
- 4) Reasonably prompt time frames for the completion of major stages of the complaint process.
- 5) Provisions for interim measures, including the following:
  - a. For each complaint, the University will assess whether it is appropriate to offer either or both parties individualized interim measures, including Administrative Directives. Where deemed appropriate, the interim measures will be provided at the initiation of the processing of the complaint. The measures may include, but are not limited to, counseling, extensions of time or other course-related adjustments, modifications of an individual's work or class schedules on the request of that individual, building/program escort services, reasonable restrictions on contact between the parties, changes in an individual's work locations on the request of that individual, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures.
  - b. When making an individualized assessment of whether an interim suspension of a student is appropriate, the University will make every effort to avoid depriving any student of her or his education, and will provide the respondent student the opportunity to respond to allegations. An interim suspension will not be imposed prior to opportunity for the student to respond unless the University determines circumstances warrant immediate action to ensure the safety of the complainant and/or University community.

**Reporting Requirements:**

1. Within 90 days of signing this Agreement, the University will submit to OCR for review and approval its revised Title IX Policies and Procedures referenced in B(1)-B(5) above.
2. Within 45 calendar days of written notice from OCR that the revised Title IX Policies and Procedures are approved, the University will adopt, implement, and publish the revised Title IX Policies and Procedures and make written notification to students, faculty, staff, and any other persons who work with Youth Participants, as discussed in Section F below, regarding the revised Title IX Policies and Procedures. The University

will make such notification through the University's website, electronic mail messages to students, faculty, staff, and any other persons who work with Youth Participants, as discussed in Section F below, as well as any other additional means of communication the University deems effective to ensure that the information is widely disseminated to the University community.

3. Within 15 calendar days of when the University adopts, implements and publishes the approved revised Title IX Policies and Procedures, the University will provide OCR with copies of the written notifications issued to all students, faculty, staff and any other persons who work with Youth Participants, as discussed in Section F below, regarding the revised Title IX Policies and Procedures, as well as a description of how the information was distributed.

### **C. Record-Keeping**

Within 90 days of signing this Agreement, the University will develop Record-Keeping Provisions that instruct staff on the requirements for documenting the processing of complaints of sexual harassment received by the University. Consistent with Title IX, these Record-Keeping Provisions will require the University to maintain the following information:

- 1) documentation reflecting the University's processing of the complaint, including information regarding the date/time/nature/location of the incident, the date the University became aware of the incident, correspondence regarding the complaint, and the date the Title IX Coordinator received notice of the incident;
- 2) documentation describing notification to the respondent regarding the complaint allegations and the specific charges, including the University policy provisions brought against the respondent;
- 3) documentation regarding any investigation conducted by the University, including but not limited to, witnesses identified, witnesses interviewed, documents reviewed, transcripts, recordings, and any other information considered during complaint processing, including Sexual Harassment and Assault Reporting and Education (SHARE) reports, and any information the University considered from University police reports or any other criminal investigation;
- 4) documentation of information reviewed by the adjudicator(s) and of the University's disposition of the complaint, which includes the date of the disposition, the rationale for the disposition, and a description of any disciplinary sanctions imposed;
- 5) documentation demonstrating that notice of the outcome was provided to both parties;
- 6) a copy of any audio and/or video recording of hearing proceedings;

- 7) documentation of appeals, if any, and record of notice of appeals, and the outcome of the appeals, to both parties;
- 8) documentation of interim measures, when appropriate, offered to the complainant and respondent pending the University's determination or resolution;
- 9) documentation of Administrative Directives, including whether an Administrative Directive was issued to one party or both parties;
- 10) documentation, in cases where the respondent student is placed on interim suspension, showing the process employed, including steps taken to ensure the respondent student was provided opportunity to respond to allegations, the individualized assessment of whether the complainant and/or University community's safety was at risk, and the steps taken to make every effort to avoid depriving any student of her or his education.
- 11) documentation of any remedies provided to the complainant in a sexual harassment case where a respondent has been found responsible; and
- 12) any additional records the University relied upon during its complaint processing, including the investigation and resolution of the matter.

#### **Reporting Requirements:**

1. Within 90 days of signing this Agreement, the University will submit the above-referenced Record-Keeping Provisions to OCR for its review and approval.
2. Within 45 days of OCR's approval of the University's Record-Keeping Provisions, the University will adopt the Record-Keeping Provisions and they shall become part of its Title IX complaint processing procedures. The University will distribute copies of the Record-Keeping Provisions to its Title IX Coordinator, OSMPR, and OSC staff.
3. Within 90 days of OCR's approval of the University's Record-Keeping Provisions, the University will provide OCR with information or documentation confirming that the Record-Keeping Provisions have been distributed and are being used for the University's processing of Title IX complaints.

#### **D. Title IX Staff Training and Oversight**

Within 45 days of implementing the revised Title IX Policies and Procedures (Section B above), and the revised Record-Keeping Provisions (Section C above), the University will provide mandatory trainings, including training on its updated Title IX Policies and Procedures and Record-Keeping Provisions, for staff who are responsible for processing, investigating, adjudicating, and/or resolving complaints of sexual harassment, including staff members of OSMPR, OSC, and AAO as well as senior-level administrators with direct responsibility for

these offices (e.g. Provost and Vice President and associate/assistant vice presidents for Student Affairs). The training will include relevant information regarding the following:

- 1) Revisions of the University's Title IX Policies and Procedures pursuant to Section B of this Agreement;
- 2) the Record-Keeping Provisions developed pursuant to Section C of this Agreement;
- 3) the steps necessary to conduct and document adequate, reliable, and impartial investigations of sexual harassment which provide opportunities for both parties to present witnesses and evidence;
- 4) available interim measures and resources for both of the parties; and
- 5) the requirement to provide notice to all parties of the outcome of the investigation and of any subsequent appeals.

The University will also provide training to University Police Chiefs and University Police representatives who may investigate sexual assault matters, Office of Ethics and Compliance managers and specialists, Title IX Resource Persons at each Commonwealth Campus, and Residence Life Directors on the requirements that their staff notify the Title IX Coordinator of all instances of actual knowledge of sexual harassment and maintain the required documentation of complaints of sexual harassment.

In complaints for which OCR has identified Title IX violations or concerns, or identifies Title IX violations or concerns during monitoring, the University will, as appropriate, take steps to address any failures on the part of staff (including senior-level administrators and Athletic Directors, coaches, medical staff, and any other persons who work with Youth Participants) to ensure that all complaints of sexual harassment were immediately reported to the Title IX Coordinator and that other appropriate steps were taken consistent with Title IX.

#### **Reporting Requirements:**

Within 15 days of conducting the trainings required in Section D of this Agreement, the University will provide documentation showing that the above-listed University staff received the trainings outlined in Section D of this Agreement, including copies of the training materials and attendance information, including sign-in sheets and other attendance tracking data.

By July 1, 2020, the University will provide OCR a copy of its documents regarding the review of each employee or former employee, including any interview memoranda, other supporting documents, and a copy of each written report of its findings, including justifications for each action to be taken or determined not to be taken.

By August 1, 2020, the University will provide OCR with documentation verifying any actions that have been taken with respect to each employee or former employee.

## **E. Athletic Department Training**

The University will also provide annual training, consistent with Section D above, to all Athletic Directors, coaches, staff (including medical staff), and any other persons who work with Youth Participants, as discussed in Section F below, regarding what constitutes sexual harassment and how to respond to complaints of sexual harassment, including the University's requirement that all complaints of sexual harassment must be immediately reported to the Title IX Coordinator.

New employees or other persons who work with Youth Participants, as discussed in Section F below, will receive this training within four weeks of their start date.

The University will provide annual training to all student athletes, student managers, and student trainers concerning the University's Title IX Policies and Procedures. This training will be provided within four weeks of the start of such students' participation in their sport.

### **Reporting Requirement:**

Within 15 days of providing any training referenced in this Section, the University will provide to OCR copies of the training materials and attendance information, including sign-in sheets or other attendance tracking information.

## **F. Youth Participants**

The University will provide appropriate and effective notification to (i) all individuals under 18 years of age who participate in any of the University's education programs or activities (Youth Participants), and (ii) their parents/guardians, that Title IX prohibits sex discrimination (including sexual harassment and/or sexual abuse) against Youth Participants in any of the University's education programs or activities, including recreational and/or athletic programs or services operated by the University.

### **Reporting Requirements:**

1. Within 45 days of signing this Agreement, the University will submit to OCR for review and approval a proposal for making such notification which includes:
  - a) draft language for conveying the information; and
  - b) a description of how the information will be communicated (which may in part involve changes to existing University policy(ies), distribution of electronic or paper materials in connection with applicable education

programs or activities, and/or direct contact via email, postal mail, or other communication media).

2. Within 45 calendar days of written notice from OCR that the University's proposal is approved, the University will make the required notification and provide OCR with copies of the same, along with a description of how the information was distributed and/or published.
3. The University will continue to provide OCR copies of the required notification, along with a description of how the information was distributed and/or published, within 15 calendar days of when such notification was made semi-annually until monitoring of this Agreement is complete.

### CONCLUSION

The University shall not be deemed to have made any admission of liability by entering this Agreement.

The University understands that by signing this Agreement, it agrees to provide the foregoing 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 Title IX. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The University understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the University's representative below.

\_\_\_\_\_  
3/18/2020  
Date

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/s/  
Eric Barron  
President

\_\_\_\_\_  
3/26/2020  
Date

\_\_\_\_\_  
/s/  
Carol Ashley  
Office for Civil Rights  
U.S. Department of Education