

Voluntary Resolution Agreement
Notre Dame College
OCR Docket Number 15-09-6001

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced compliance review of Notre Dame College (the College), in accordance with provisions contained in the Title VI implementing regulation, at 34 C.F.R. § 100.7(a), that OCR may periodically initiate compliance reviews to ensure the practices of recipients are in compliance with the laws OCR enforces, including Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, 34 C.F.R. Part 106. This review was not initiated as a result of complaints of any kind against the College. Prior to the completion of OCR's investigation, the College asked to address any issues identified in this review, accordingly, to provide compliance with Title IX. In cooperative partnership with OCR, the College confirms its continuing compliance in the following areas:

I. **Action Steps**

A. **Title IX Grievance Procedures**

1. By November 1, 2010, the College will submit to OCR for its review and approval, draft Title IX grievance procedures to address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence) as required by Title IX's implementing regulation at 34 C.F.R. § 106.8(b). These procedures will provide for the prompt and equitable response and resolution of complaints alleging sex discrimination including:
 - notice that the procedures apply to complaints alleging sex discrimination (including sexual harassment, sexual assault, and sexual violence) by employees, students, or third parties;
 - an explanation of how to file a complaint pursuant to the procedure;
 - an explanation of the College's informal complaint procedure and that such procedure is optional;
 - the name or title, office address, and telephone number of the individual with whom to file a complaint;
 - the timeframes for the College to attempt to informally resolve a complaint;
 - definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault, and sexual violence);
 - provide for the adequate, reliable, and impartial investigation of all complaints, including the opportunity for the parties to present witnesses and other evidence;

- timeframes for the major stages of the investigation, with a provision indicating that the College will comply with law enforcement requests for cooperation and such cooperation may require the College to temporarily 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 College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten calendar days, although the delay in the College's investigation may be longer in certain instances;
 - the College will 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;
 - the College will ensure that the victims are 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
 - an assurance that the College will keep the complaint and investigation confidential to the extent possible;
 - written notification to the parties of the outcome of the complaint;
 - notice of the opportunity for the parties to appeal the findings;
 - an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker;
 - an assurance that the College will take steps to prevent recurrence of any discrimination, with examples of the range of possible disciplinary sanctions and the types of remedies available to address the discriminatory effects on victims and others; and
 - a statement that Title IX prohibits retaliation against any individual who files a complaint under Title IX or participates in a complaint investigation.
2. Within 45 calendar days of written notification from OCR that the revised grievance procedures developed in accordance with item #1 above are consistent with Title IX requirements, the College will adopt and implement the procedures and will provide all students and employees with electronic or written notice regarding the new grievance procedures for resolving Title IX complaints together with information on how to obtain a copy of the grievance procedures. The College, at a minimum, will make this notification through the College's website, electronic mail messages to employees and students, as well as by any other additional means of notification the College deems effective to ensure that the information is widely disseminated.

B. Notice of Nondiscrimination

1. By November 1, 2010, the College will draft and submit to OCR for review a notice of nondiscrimination pursuant to 34 C.F.R. § 106.9, which will notify students, employees, and other relevant persons that it does not discriminate on the basis of sex in the education programs or activities that it operates and that it is required by Title IX not to discriminate in such a manner. Additionally, the notice will state that the requirement not to discriminate in the College's education programs and activities extends to employment with and admission to the College and that inquiries concerning the application of Title IX may be referred to the Title IX Coordinator. The policy shall include the name or title, office address, and telephone number for the College's Title IX Coordinator. The College will publish this information consistent with the requirements of Title IX at 34 C.F.R. § 106.9.
2. Within 45 calendar days of written notification from OCR that the College's notice of nondiscrimination complies with Title IX, the College will ensure that, to the extent required by Title IX at 34 C.F.R. § 106.9, each of its electronic and printed publications of general distribution that provide information to employees and students about College services and policies contain the notice of nondiscrimination. Inserts may be used pending reprinting of these publications.

C. Title IX Coordinator

1. By November 1, 2010, the College will designate an employee to coordinate the College's efforts to comply with Title IX and will publish this individual's name or title, office address, and telephone number consistent with the requirements of Title IX at 34 C.F.R. § 106.8(a).
2. By December 15, 2010, the College will develop a training program for the employee designated to coordinate the College's efforts to comply with Title IX, including the investigation of complaints filed by students, staff, and faculty. The training will cover the investigation of Title IX complaints filed by students, staff, and faculty and the responsibility of the Title IX Coordinator to regularly develop and participate in activities designed to raise awareness in the campus community about sex discrimination (including sexual harassment, sexual assault, and sexual violence), the existence of OCR and its responsibility to enforce Title IX, and the College's policies and procedures regarding such matters.

D. Coordination with Local Law Enforcement

1. Upon receipt from OCR or by November 1, 2010, whichever is latest, the College will forward to the South Euclid Police Department OCR's letter regarding the College's Memorandum of Understanding (MOU) with the SEPD on law enforcement and investigative operations as it relates to the College's obligation to investigate Title IX complaints of sexual harassment, including sexual assault and sexual violence. The letter will memorialize OCR's consultation with the Cuyahoga County Prosecutor's office regarding the following: (1) that in instances where conduct of a sexual nature is involved, the College only is required to suspend its fact-finding process under Title IX during a police department's initial evidence gathering process to determine if criminal charges will be prosecuted; (2) that upon notification from local law enforcement that it has completed its evidence gathering process, the College may resume its fact-finding portion of its Title IX investigation; and (3) that during the pendency of the initial evidence gathering by the police, the College is not precluded from providing witnesses with information about their Title IX rights or resources for victims or taking such interim actions as may be necessary to ensure the safety of any victims and the campus community. The College may choose to share OCR's letter with other local law enforcement agencies.

E. Title IX Training for Title IX Coordinator and College Personnel

1. By January 31, 2011, the College will schedule OCR Cleveland staff to assist the College in providing Title IX 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, sexual harassment, sexual assault, or sexual violence, or who will otherwise coordinate the College's compliance with Title IX. The College's portion of the training will cover the College's new grievance procedures for Title IX complaints and will provide attendees with instruction on recognizing and appropriately addressing allegations and complaints pursuant to Title IX. The training provided by OCR will cover sex discrimination, including sexual harassment/assault and violence, and the College's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature and to ensure that victims of sexual offenses that are criminal in nature are aware of the College's Title IX obligations and its Title IX grievance procedures. Additionally, the OCR training will include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation (which differ from a criminal investigation). Finally, the College's portion of the training will include information on the link between alcohol abuse and sexual harassment/sexual violence and best practices to address that link.
2. By January 31, 2011, the College will schedule OCR Cleveland staff to assist the College in providing Title IX training to all administrators, professors, instructors, residential assistants,

coaches, and other staff who interact with students on a regular basis. The training will provide attendees with essential guidance and instruction on recognizing and appropriately addressing allegations and complaints of sex discrimination, including the differences between sex discrimination, sexual harassment sexual assault, and sexual violence and an understanding of the College's responsibilities under Title IX to address allegations of sexually inappropriate behaviors, whether or not the actions are potentially criminal in nature. In addition, the College's portion of the training will cover the College's new grievance procedure for Title IX complaints.

3. By August 1, 2011, the College will develop an ongoing Title IX training program to provide staff and faculty with adequate training each year, which program could consist of one more in-depth training session plus a refresher. The goal of the training will be to provide College staff and faculty with information about any changes to the law, College policy, and College practices in this area.

F. Student-Focused Remedies

1. By November 1, 2010, the College will develop and submit to OCR for its review material available to students on sexual harassment and sexual violence, to be distributed to students during orientation and upon receipt of complaints of sexual harassment and sexual violence. The material will contain information on what constitutes a sexual assault, what to do if you have been the victim of sexual assault, and contact information for on and off-campus resources for victims of sexual assault. In addition, the College will include information on how to file a complaint of sexual assault with the College, how to file a separate complaint of sexual harassment with the College, the name and contact information for the College's Title IX Coordinator(s) and a description of the Title IX Coordinator's role, information on how to obtain counseling and academic assistance in the event of a sexual assault, and information on what interim measures can be taken if the alleged perpetrator lives on campus and/or attends classes with the victim.
2. By February 28, 2011, the College will create and charge a campus focus group consisting of representative leaders from the student community (e.g., women's groups, athletes, residential assistants, fraternity and sorority leaders, etc.) and College officials with providing input regarding strategies for ensuring that students understand their rights under Title IX, how to report possible violations of Title IX, and are aware of the College's obligation to promptly and equitably respond to Title IX complaints. The campus focus group will provide input to the Dean of the Office of Student Affairs regarding the strategies identified. Taking into consideration the campus focus group's input, the College will

offer a series of informational session(s) that the College will provide to students to ensure that they are aware of the College's prohibition against sex discrimination and sexual harassment, including sexual assault and sexual violence; can recognize such sex discrimination and sexual harassment when they occur; and understand how and with whom to report any incidents of sex discrimination, including sexual harassment, sexual assault, and sexual violence. In addition, the sessions will cover the College's updated grievance procedures for Title IX complaints, as well as a general overview of what Title IX is, the rights it confers on students, the resources available to students who believe they have been victims of sexual harassment, sexual assault, and sexual violence, and the existence of OCR and its authority to enforce Title IX. These sessions will be provided as part of the annual student orientation for new and returning students and annual residence life orientation for students residing in campus housing.

3. By November 1, 2010, the College will review its campus police records for the 2009-2010 school year and, for any complaint of sexual assault/sexual violence that was treated solely as a criminal matter and/or where the Title IX Coordinator was not involved, the College's Title IX Coordinator will review the matter to determine whether sexual harassment occurred in violation of Title IX and whether the remedies were effective in making the victim whole. If not, the College will promptly take measures, should the victim still be enrolled as a student, to ensure the sexual harassment was fully and effectively addressed.
4. By June 11, 2011, and again at the end of the 2011-2012 and 2012-2013 school years, the College will conduct a climate check or series of climate checks with students on campus to assess the effectiveness of steps taken pursuant to this agreement or otherwise by the College, to ensure a campus free of sexual harassment, in particular sexual assaults and sexual violence. This climate check may be accomplished through a written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as a counselor, should they wish to discuss this issue in person. If this method is selected, the written survey must be provided to OCR for review and approval prior to its use. Information gathered during these climate checks will be used to inform future proactive steps taken by the College.

II. Reporting Requirements

OCR will monitor the College's implementation of each item of this agreement until such time as OCR has obtained sufficient evidence to demonstrate that the College is in compliance with the provisions of Title IX applicable to this compliance review. OCR will not close the monitoring of this compliance review until it determines that the College is in full compliance with the provisions of Title IX that are applicable to this review. In addition to the monitoring provisions set forth herein, during its monitoring of this agreement OCR will visit the College, interview College staff and students, and request such additional reports or data as are necessary for OCR to

determine whether the College has complied with the terms of this agreement and with the provisions of Title IX that are applicable to this review. The aforementioned actions are being taken pursuant to OCR's statutory authority and are not intended to imply that the College is currently in noncompliance with Title IX. To the contrary, as noted above, the College asked to voluntarily resolve this review prior to the completion of OCR's investigation and any compliance findings being reached under Title IX.

- **Grievance Procedures**

- a. By November 1, 2010, the College will submit to OCR for its review and comment its Title IX grievance procedures referenced in item A (1) above.
- b. Within 45 calendar days after OCR's approval of the Title IX procedures referenced in item A (1) above, the College will provide OCR with documentation that it has implemented item A(2) above, including copies of the written notices issued to students and employees regarding the new Title IX procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised Title IX procedures are located.
- c. By June 18, 2011, June 18, 2012, and June 18, 2013, the College will submit to OCR copies of all Title IX grievances filed under the new grievance procedure, by or on behalf of students, alleging sexual harassment, including allegations of sexual assault and sexual violence, during the 2010-2011, 2011-2012, and 2012-2013 school years, respectively. The College will provide OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals. If no Title IX grievances were filed during the year in question, the College will so notify OCR in writing.

- **Notice of Nondiscrimination/Title IX Coordinator**

- d. By November 1, 2010, the College will provide OCR with a copy of the College's Title IX notice of nondiscrimination referenced in item B (1) above and the name and title of the Title IX Coordinator pursuant to item C(1).
- e. Within 90 calendar days of OCR's approval of the College's notice of nondiscrimination, the College will provide OCR with documentation that it has implemented item B(2) above, including copies of any printed publications, and web links to any electronic publications containing the notice.
- f. By December 15, 2010, the College will provide OCR with a copy of the Title IX Coordinator training program developed pursuant to item C(2) above.
- g. By June 18, 2011, the College will provide OCR with documentation regarding any events it has held to raise Title IX awareness on campus. This documentation will include a description of each event, the names and titles

of the individuals who organized the event, information and documentation regarding who was invited to attend the event, copies of any materials used to publicize the event, copies of any materials distributed at the event, and an estimated head count of the number of people in attendance.

- **Memorandum of Understanding and Coordination With Local Law Enforcement**

- h. By November 1, 2010, the College will provide OCR with documentation that it forwarded to the South Euclid Police Department OCR's letter regarding coordination with local law enforcement pursuant to item D above.

- **Staff Training**

- j. By February 15, 2011, OCR and the College will have provided the training required by item E(1)-(2) and the College will provide verification to OCR that the training materials used during these training sessions were disseminated to any individuals covered by E(1)-(2) who were unable to attend the training session(s), including the names and titles of the individuals who received the information.
- k. By August 1, 2011, the College will submit to OCR for its review and approval its newly developed Title IX training program in accordance with item E(3) above.

- **Student-Focused Remedies**

- l. Within 60 calendar days of OCR's approval of the material referenced in item F(1) above, the College will provide OCR with documentation that it has implemented item F(1) above, including a link to where the material is posted on the College's website, and the College offices that will be responsible for distributing the material upon receipt of a complaint of sexual harassment and/or sexual violence.
- m. By February 28, 2011, the College will provide OCR with documentation that it has implemented item F(2) above, including a list of names and titles of the members of the campus focus group, the dates of and copies of any minutes of campus focus group meetings, a copy of the campus focus group's recommended actions, and a detailed description of each informational session held by the College, the date(s) the sessions were held, the names, titles and qualifications of the individuals who led the informational sessions, and copies of any written materials distributed during the sessions.
- n. By November 1, 2010, the College will provide documentation demonstrating implementation of item F(3) above.
- o. By June 18, 2011, 2012, and 2013, the College will provide OCR with documentation demonstrating implementation of item F(4) above, including summaries of the information obtained and proposed actions based on that information.

President or designee
Notre Dame College

Date