

**Resolution Agreement
Frostburg State University
Complaint Nos. 03-13-2328 and 03-15-2032**

In order to resolve the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), under 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), Frostburg State University (University) agrees to take the steps set forth below. The Resolution Agreement has been entered into voluntarily and the University and does not constitute an admission by the University that the University is not in compliance with Title IX or its implementing regulation. OCR recognizes that the University has cooperated with OCR during the course of the investigation.

ACTION STEPS

I. Anti-Harassment/Anti-Retaliation Statement

The University will issue a statement to all students, faculty and staff that will be printed in the University's newspaper, posted in prominent locations in the University, and published on the University's website, stating that the University does not tolerate sex discrimination, including sexual harassment, sexual assault, and sexual violence. The statement will also state that retaliation against individuals who file complaints about sex discrimination, sexual harassment or sexual assault/violence, or participate in the investigation of such complaints, is prohibited. The statement will encourage any member of the University community who believes he or she has been subjected to sexual harassment to report the harassment to the University, and will note the University's commitment to conducting a prompt investigation and appropriately addressing any violation of the University's policies in a timely manner. The statement will inform students how to report allegations of sex discrimination, including sexual harassment, sexual assault and sexual violence, and include the appropriate contact information for the designated staff member to whom students may report allegations. The statement will advise that any findings by the University that a student or employee has engaged in an act or acts of sex discrimination, including sexual harassment, sexual assault, and sexual violence, or retaliation will be promptly addressed in accordance with University policies and may result in disciplinary action. The statement will make clear that such disciplinary action may include, if circumstances warrant, suspension, expulsion or termination of employment. The statement will encourage students, faculty and staff to work together to prevent acts of sex discrimination of any kind, and will highlight resources available to individuals who have been subjected to sex discrimination, including sexual harassment, sexual assault and sexual violence. The statement will be provided to OCR for review and approval.

Reporting Requirement: By November 1, 2016, the University will provide for OCR review and approval, a copy of the proposed Anti-Harassment/Anti-Retaliation Statement. Within 45 days of OCR approval of the proposed Anti-Harassment/Anti-Retaliation Statement, the University will submit to OCR documentation substantiating that the Anti-Harassment/Anti-Retaliation Statement has been posted in prominent

locations and widely published, including in the University's newspaper and on the University's website.

II. Title IX Coordinator

Since the filing of the above-referenced complaints, OCR acknowledges that the University has taken a number of steps in an effort to ensure its compliance with 34 C.F.R §106.8(b) and §106.9(a), in addressing the requirements for a Title IX Coordinator, including hiring a full-time Title IX Coordinator in January 2015. As a result, the University has reviewed and revised the responsibilities of its Title IX Coordinator, and by this Agreement agrees to conduct an additional review of the current responsibilities of its Title IX Coordinator and any Deputy Coordinators by December 31, 2016, to determine and ensure that their responsibilities are consistent with Title IX. Based on the Title IX Coordinator's responsibilities, the University will develop a description of corresponding mandatory training requirements for its Title IX Coordinator. The responsibilities and training requirements will continue to include or will be revised to include the following:

1. The Title IX Coordinator will have expert knowledge of the University's Title IX grievance procedure(s) and will oversee all Title IX reports/complaints received by the Title IX Coordinator and all other departments, offices, and individuals identified as responsible employees or delegated the responsibility for receiving and/or investigating reports/complaints of sex discrimination, including sexual harassment and sexual violence, and will address any patterns or systematic problems that arise during the review of such reports/complaints, and assess overall efficacy of coordination and overall response by the University to sexual harassment and sexual violence, including the implementation and efficacy of interim measures, the steps taken to stop sex discrimination/harassment found to have occurred and prevent its recurrence, steps taken to eliminate any hostile environment that has been created for students and steps taken to remedy any discriminatory effects on the complainant and others, as appropriate.
2. The Title IX Coordinator will retain ultimate oversight and responsibility for any Deputy Coordinators the University designates to assist the Title IX Coordinator. The University will also develop specific statements of the roles and responsibilities of each Deputy Coordinator that clearly delineate the scope of each Deputy Coordinator's duty and their subordinate roles to the Title IX Coordinator.
3. The Title IX Coordinator will have ultimate responsibility for: the prompt investigation of reports/complaints alleging sexual harassment and sexual violence; adjudication of whether sexual harassment or sexual violence has occurred in individual cases; the identification of remedies (including interim measures) necessary to address sexual harassment or sexual violence, eliminate any hostile environment, and prevent its recurrence; and consultation, as necessary, on any matter where it has been determined that sexual harassment or sexual violence has occurred in order to ensure the University's compliance with Title IX. To the extent that any of the duties of the Title IX Coordinator will be delegated to other individuals at the University, the statement will clearly state what will be delegated to whom and how the Title IX Coordinator will retain oversight of any delegated responsibilities.

4. The Title IX Coordinator will oversee the provision of initial and ongoing training to any Deputy Coordinators and any other individuals from any University department or office delegated the responsibility for receiving and/or investigating reports of sex discrimination, including sexual harassment and sexual violence. The Title IX Coordinator will also have sufficient experience or training in these same concepts. The training content will include the substantive requirements of Title IX and how to investigate reports under Title IX that allege sex discrimination, including sexual harassment and sexual violence.
5. The Title IX Coordinator will be responsible for the development, coordination, and implementation of periodic Title IX training for the University community (i.e., staff, faculty, resident assistants, coaches, students, etc.).
6. The Title IX Coordinator will have responsibility for the continued development, coordination, and implementation of regular events hosted by or supported by the University leadership to raise awareness in the University community about all forms of sex discrimination (including sexual harassment and sexual violence) and the University's policies and procedures regarding such matters.
7. The Title IX Coordinator will be responsible for providing information to students and employees regarding their Title IX rights and responsibilities, including but not limited to: information about the resources available on and off University property, the formal and informal resolution processes, the availability of interim measures, and the ability to file a complaint with local law enforcement and the University simultaneously.
8. The Title IX Coordinator will be responsible for periodic review and assessment of the University's Title IX procedures, and any related policies and procedures, to ensure that they are consolidated to the maximum extent possible to provide an efficient resource for students, faculty, and staff.
9. Neither the Title IX Coordinator nor any Deputy Coordinators shall have other job responsibilities that create a conflict of interest with regard to their duties and responsibilities under Title IX.
10. The Title IX Coordinator will be responsible for coordinating communications with University Police and local law enforcement regarding the University's obligations under Title IX and for serving as a resource on Title IX issues.
11. The Title IX Coordinator will be responsible for coordinating the development and implementation of periodic assessments (including, for example, surveys and focus groups) of campus climate with regard to sexual harassment and sexual violence.
12. The Title IX Coordinator will coordinate with appropriate administrators, student services personnel, and law enforcement officers to identify and address any patterns or systemic problems under Title IX and to assess the overall efficacy of the coordination among these various offices.
13. The Title IX Coordinator will annually review all reports/complaints of discrimination on the basis of sex, including sexual harassment and sexual violence, in order to identify, to the maximum extent possible, and address any patterns or systemic problems, such as: how many reports involved particular groups of students, e.g., first-year students, athletes, graduate students, members of student organizations; whether any individuals or organizations engaged in repeated misconduct, whether there are any patterns of barriers to reporting for any group of students, whether there are any campus or off-campus locations which are repeatedly the site of alleged incidents and/or if reports/complaints

were not processed promptly and equitably in compliance with Title IX and the applicable policies and procedures.

Reporting Requirement: The University agrees that the responsibilities of the Title IX Coordinator described above are essential to its commitment to compliance with Title IX and will not change or minimize those responsibilities, except with approval of OCR. By February 1, 2017, the University will provide for OCR review and approval, a copy of the Title IX Coordinator's responsibilities and corresponding mandatory training requirements. Within 45 days of OCR's approval, the University will revise the Title IX Coordinator's responsibilities and corresponding training requirements as may be needed. Within 60 days of revising the Title IX Coordinator's responsibilities and corresponding mandatory training requirements, the University shall provide OCR with the revised Title IX Coordinator's responsibilities and corresponding mandatory training requirements, and documentation substantiating that the University implemented and distributed the revised Title IX Coordinator's responsibilities and corresponding training requirements to the University's Title IX Coordinators.

III. Notice of Non-Discrimination

The University will revise its notice of non-discrimination to state that the University does not discriminate on the basis of sex in its programs and activities and that the prohibition extends to employment, and submit it to OCR for review and approval. The notice of non-discrimination will include the name/title, office address, telephone number, and electronic mail (email) address of the University's Title IX Coordinator. The notice of nondiscrimination must include that inquiries to the University concerning application of Title IX and its implementing regulation may be referred to the Title IX Coordinator or to OCR. The University will broadly publish its revised notice of nondiscrimination, including on the University's website and in its promotional materials, student and employee handbooks, application forms and its other published materials in accordance with 34 C.F.R. § 106.8(a). Inserts may be used pending reprinting of the publications.

Reporting Requirement: By November 1, 2016, the University will provide, for OCR review and approval, a copy of its amended notice of non-discrimination, a list of the titles of the publications in which the notice of nondiscrimination appears (e.g. University catalog, web site, student handbook), and a copy of at least one publication disseminated to the campus community, printouts, or link to an on-line publication containing the notice.

IV. Title IX Policies and Grievance Procedures

OCR acknowledges that since its investigation beginning in 2013, the University has reviewed and revised its policies in order to improve its investigation and response to sexual misconduct and comply with Title IX as well as reviewed and revised its policies and procedures on sexual misconduct. On January 1, 2016, the University approved and disseminated its most recent update of its Policy on Gender Based Harassment and Violence, as well as the Procedures for Investigating and Resolving Reports of Prohibited Conduct.

The University will revise, as may be necessary, its policies and procedures that address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence), including but not limited to the *Gender-Based Harassment and Violence Policy*, and *the Procedures for Investigating and Resolving Reports of Prohibited Conduct*, for OCR review and approval. Noting that many of the provisions below are already included in the most recent revision of the Gender-Based Harassment and Violence Policy and Procedures; with regard to such provisions, the University will retain them in the revised procedures. The University will ensure that the old policies are not available anywhere on the University's website to the extent practicable, and that all references to them have been removed from current University publications. The University will also ensure that notice is provided to students and employees of the existence of the revised policies and procedures and that these materials are widely distributed.

The University will ensure that the following provisions are in its policies and procedures or will adopt revisions as needed to provide, at a minimum, the following:

- a) notice that the procedures apply to reports/complaints alleging all forms of sex discrimination (including sexual harassment, sexual assault and sexual violence) against employees, students or third parties;
- b) notice to students and employees of where reports/complaints may be filed, including contact information for the Title IX Coordinator;
- c) provisions for adequate, reliable and impartial investigation of reports/complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
- d) designated and reasonably prompt time frames for the major stages of the investigative process, as well as the process for extending timelines, that apply equally to the parties to the complaint;
- e) written notice to the complainant and alleged perpetrator of the outcome of the investigation and any appeals;
- f) assurance that the University will take immediate and appropriate steps to stop any harassment or sexual violence, prevent recurrence and remedy discriminatory effects on the complainant and others, if appropriate;
- g) 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;
- h) appropriate definitions and examples of what types of actions may constitute sex discrimination (including sexual harassment, sexual assault, and sexual violence) including a clear and consistent definition of what does and does not constitute consent to sexual conduct;
- i) a statement clarifying that the University's policy and procedures for addressing complaints of sex discrimination, including sexual harassment, sexual assault and sexual violence, apply to: all University facilities, programs, and activities, including discrimination that occurs on campus, discrimination that occurs at off-campus programs or activities that are sponsored by the University, discrimination that occurs

off-campus that has an effect on campus, the University's professional and graduate schools, and any sexual harassment perpetrated by an employee, regardless of location, if in the context of the employee's provision of aid, benefits or services to students;

- j) a statement that all responsible employees are expected to promptly report sexual harassment, including sexual assault and sexual violence that they observe or learn about;
- k) provisions that make clear the right of the victim not to appear in the hearing room or otherwise confront the alleged perpetrator during the grievance process, including any hearings or appeals;
- l) if the procedures allow for cross-examination of the parties, the procedures should strongly discourage allowing the parties to personally question or cross-examine each other during a hearing;
- m) provisions for confidential reporting, including informing a complainant that the University's ability to respond may be limited in the event of a request for confidentiality;
- n) provisions ensuring that the parties are afforded regular updates regarding the status of the investigation, as well as similar and timely access to any information used at hearings;
- o) provisions clarifying 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 a statement that there will be instances when the informal resolution mechanism is inappropriate (e.g., mediation is prohibited in cases of sexual assault, and in cases 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 that he or she has the right to end the informal process at any time and begin the formal stage of the complaint process;
- p) a statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination, sexual harassment and sexual violence complaints and a statement that it is the University's responsibility to determine whether sex discrimination, sexual harassment or sexual violence has occurred;
- q) a statement that retaliation and retaliatory harassment is prohibited against any individual who files a sex discrimination complaint with the University or participates in a complaint investigation in any way, as well as a clear explanation of how retaliation or retaliatory harassment can be reported to the University;
- r) notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously, that the University may need to temporarily suspend the fact-finding aspect of a Title IX investigation for an appropriate but brief period of time while the law enforcement agency is in the process of gathering evidence and that the University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process;
- s) provisions ensuring that students are notified, in writing, of the availability of interim measures to protect students during the University's investigation of possible sexual harassment and during any judicial process, including appeals (such as University-enforced no contact orders, changes in class schedules, counseling, other mental

- health services, academic assistance, the ability to retake or withdraw from courses without penalty, etc.) and that the University will take steps to ensure, where possible, that such interim measures do not negatively impact the complainant;
- t) an assurance that the University will not allow conflicts of interest (real or perceived) by those handling the complaints;
 - u) an assurance that the University does not consider evidence of past sexual relationships when making a determination regarding these complaints;
 - v) notice of potential remedies for students;
 - w) notice of potential sanctions against perpetrators; and
 - x) sources for counseling, advocacy and support.

Reporting Requirements:

1. By November 1, 2016, the University will provide for OCR’s review and approval, a draft of the revised procedures and any additional policies or informational documents that address complaints alleging discrimination on the basis of sex (including sexual harassment, sexual assault, and sexual violence). Within 90 days, OCR will review these grievance procedures and related materials in order to ensure that they comply with Title IX and this Agreement.
2. Within sixty (60) calendar days of written notification from OCR that the revised Title IX procedures are consistent with the Title IX requirements, the University will certify to OCR that the University has formally adopted the revised procedures, updated all printed publications and on-line publications with the revised procedures (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. University catalog, Title IX web site, student handbook), as well as a copy any such publications, which may include either a printout 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. The University will also provide documentation of how the revised procedures were distributed and that University law enforcement, the Title IX Coordinator, students, employees, staff, faculty and other appropriate University community members have access to the procedures and know where copies may be obtained.

V. Sexual Misconduct/Title IX Training

The University is committed to publicizing, disseminating and providing a comprehensive education and prevention program that informs the University community about the University’s policies and procedures, with continuous efforts toward strengthening individual knowledge and skills; educating responsible employees; fostering coalitions and networks both on-campus and in the greater community of the City of Frostburg; and devoting resources to the education, prevention and environmental change efforts to address issues related to alcohol and other drug

programs. In addition to current education and prevention initiatives, the University will provide additional training as described below.

1. Training Employees Responsible for Recognizing and Reporting Sexual Misconduct

The University will provide in-person or online training or refresher training to all employees who interact with students on a regular basis and who are responsible for recognizing and reporting incidents of sexual misconduct, to the extent they are not confidential resources under policy or applicable law. The training will cover, at a minimum: the University's Gender Based Harassment and Violence Policy and related procedures, the obligation of employees to report sexual misconduct including what should be included in a report, any consequences for the failure to report and the procedure outlining their responsibility to the student or other University community member's requests for confidentiality, how to report sexual misconduct pursuant to Title IX and the procedures, the person(s) to whom sexual misconduct must be reported, how to recognize and identify sexual misconduct and the behaviors that may lead to and result in sexual misconduct, the University's responsibilities under Title IX to address such allegations and the relevant resources available. The training should also include information on the reporting obligations of University staff, the student's option to request that their identifying information not be shared with the respondent or that no action be taken, the existence of available confidential advocacy, counseling, or other support services, the right to file a sexual harassment complaint with the University and to report a crime to campus and/or local law enforcement, the attitudes of bystanders that may allow conduct to continue, the potential for victimization of students who may have experienced sexual misconduct and its effects on students, appropriate methods for responding to a student who may have experienced sexual misconduct and the impact of trauma on students who experience sexual misconduct. During the training, the University will provide information on how to access online the Gender Based Harassment and Violence Policy and associated procedures and forms for reporting sexual misconduct, or refer them to their location within the publications they already possess.

Reporting Requirement: By January 31, 2017 and by the same date in 2018 and 2019, the University will provide documentation to OCR demonstrating that it has provided the training referenced in Action Step V.1 above. The documentation will include, at a minimum, the date(s) of the training, the name(s) and title(s) of the trainer(s), a copy of any materials used or distributed during the training and a sign-in sheet or other evidence of attendance with the names and titles of the individuals who attended the training.

2. Training for Community Members Involved In Implementation of Sexual Misconduct/Title IX Grievance Procedures

The University will provide comprehensive training for its Title IX Coordinator, any Deputy Coordinators, and any other University officials/students directly involved in receiving, processing, investigating, adjudicating and/or resolving complaints of sexual misconduct or who will otherwise coordinate the University's compliance with Title IX. The training will cover, at a minimum: the University's sexual misconduct/Title IX policies and grievance procedures; the University's obligations regarding the investigation of complaints; guidance from OCR; Title IX's prohibitions on retaliation; instruction on how to conduct and document adequate, reliable and impartial sexual misconduct/Title IX investigations for those charged with investigative

duties, including information on working with and interviewing persons subjected to sexual violence, information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper evidentiary standard of review of allegations of sexual misconduct (preponderance of the evidence); information about coordination and communication between the University and local external law enforcement; information on consent and the role drugs and alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual misconduct; the need for remedial actions for the respondent, complainant and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; confidentiality; the effects of trauma; and cultural awareness training regarding how sexual misconduct may impact students differently depending on their backgrounds.

Reporting Requirement: By December 31, 2016, and by the same date in 2017 and 2018 the University will provide documentation to OCR demonstrating that it has provided the training referenced in Action Step V.2., above. The documentation will include, at a minimum, the date(s) of the training, the name(s) and title(s) of the trainer(s), a copy of any materials used or distributed during the training and a sign-in sheet or other evidence of attendance with the names and titles of the individuals who attended the training.

3. Training of Students

The University will review and revise as needed, its programs, materials and training addressing sexual misconduct for students, including transfer students and graduate students. The University will ensure that, during the monitoring of this agreement, all incoming students receive training approved by OCR. The training will include, at a minimum, information on the University's sexual misconduct/Title IX grievance procedures, the University's obligations regarding the investigation of reports/complaints, guidance from OCR, and Title IX's prohibitions on retaliation. The training will also include information on particular types of conduct that would constitute sexual violence, including sexual assault and information on consent and the role drugs and alcohol can play in the ability to consent. The training will also make students aware of the University's prohibition against sexual harassment, sexual violence and retaliation, educate students on how to recognize such forms of sex discrimination when they occur, inform students regarding how and to whom any incidents of sexual harassment, sexual violence and retaliation should be reported, provide a general overview of Title IX, the rights this law confers on students, the resources available to students who have experienced sexual harassment, sexual violence and retaliation, and the role and authority of OCR to enforce Title IX. The training should be presented in lay terms familiar to University students, and illustrated with examples relevant to student life at the University. Information included in the training will be provided to students on an annual basis. During the first year of this agreement, the University will ensure that all returning students are provided with training. In subsequent years, the University will send an email to all students at the beginning of each semester providing the information outlined in this paragraph.

The University will identify any additional training needed for specific groups, including but not limited to, fraternities, sororities, and athletes base on assessments made by the Title IX Coordinator.

Reporting Requirement: By May 31, 2017, and by the same date in 2018 and 2019, the University will provide documentation to OCR demonstrating that it has provided the training referenced in Action Step V.3., above. The documentation will include, at a minimum, the date(s) of the training, the name(s) and title(s) of the trainer(s), a copy of any materials used or distributed during the training and a sign-in sheet or other evidence of attendance with the names and titles of the individuals who attended the training, and a copy of the email issued at the start of each semester.

VI. Student Outreach

1. The University will ensure that the Gender-Based Harassment and Violence Elimination Task Force (Task Force) includes the following members: (i) the University's Title IX Coordinator; (ii) an additional University level administrator with knowledge, responsibilities and authority relevant to the duties of the Committee; (iii) representative administrators, faculty members and students; and (iv) such other individuals as the University determines appropriate, such as University counselors or health service workers or representatives from any community-based organizations which provide services to the University related to sexual harassment/violence prevention. The Task Force will develop a plan to be implemented at the University for educating students and employees about issues related to sexual harassment, including what constitutes sexual harassment and the impact it has on individual students and the educational environment, the prohibition of sexual harassment in the educational setting, the importance of reporting sexual harassment, how and to whom to report incidents of sexual harassment, the University's obligation to respond appropriately to notice of sexual harassment and potential consequences and corrective action if harassment is found. The University will implement the plan and monitor its effectiveness.
2. The University will, as appropriate, revise its existing materials or develop new materials on sexual misconduct to be distributed to students during the University's orientation sessions, currently FSU Preview, for new students. The University will also, as appropriate, revise its existing materials or develop new materials on sexual misconduct to be distributed to students upon receipt of complaints of sexual misconduct. The materials will contain information on what constitutes sexual misconduct, what to do if a student has been subjected to sexual misconduct and contact information for on and off-campus resources for students who have been subjected to sexual misconduct. In addition, the University will include information on: how to file a report/complaint of sexual misconduct with the University; the name and contact information for the University's Title IX Coordinator or the individual with whom reports/complaints are filed; a description of the Title IX Coordinator's role; information on how to obtain counseling and academic assistance in the event of sexual misconduct; information on what interim measures can be taken to protect a complainant; and how to request interim measures if the alleged perpetrator lives on campus and/or lives in the same dorm and/or attends the same classes as the complainant.

Reporting Requirements:

1. By December 1, 2016, the University will provide OCR with documentation that it has implemented Action Step VI.1, including a list of names and titles of the members of the Task Force, meeting dates and minutes.
2. By January 1 and June 1, 2017, the University will submit to OCR for review a list of recommendations submitted by the Task Force, as well as a list of the recommendations that were adopted by the University. In particular, this list will include a copy of the Task Force's recommended actions relating to the procedures, outreach, training and/or other University practices addressed by this Agreement, together with supporting information that explains the bases to proceed or not to proceed with any recommendation (such as climate checks), and the University's plans with respect to those recommendations (including timeframes for such plans). The Task Force will incorporate feedback from OCR in its recommendations.
3. By February 1, 2017, the University will provide OCR with documentation that it has implemented Action Step VI.2, including copies of the materials that the University developed in accordance with Action Step VI.2, for OCR review and approval. After OCR's approval of the training materials, and within 10 days following the final 2017 FSU Preview session, the University will provide documentation demonstrating that the University disseminated the information during FSU Preview, including the FSU Preview schedule, the names and titles of employees who presented on the required topics, an agenda and copies of any materials that were used or distributed regarding the required topics.

VII. Climate Checks

The University will conduct climate checks with students to assess the steps and measures taken pursuant to this Resolution Agreement and otherwise by the University to achieve its goal of a campus free of sexual misconduct, in particular sexual assault and sexual violence. A climate check may be accomplished in many ways, including but not limited to, a written or electronic survey, focus groups, open forum information sessions for students and employees or designated publicized walk-in hours for campus community input. Any written or electronic survey used should contain questions about the student's knowledge of sexual misconduct (including sex discrimination and/or sexual harassment/violence) any experiences with sexual misconduct while attending the University and the student's awareness of the University's sexual misconduct/Title IX policies and procedures and include a contact person, such as a counselor, who the student can go to for support or if they wish to discuss an issue of sexual misconduct in person.

The University will submit for OCR review and approval a description of the tools used for conducting a climate check or series of climate checks. The description will include the University's strategy for implementing the climate check(s) and analyzing the results. Information gathered during these climate checks will be used to inform future proactive steps taken by the University to provide an environment that is safe and supportive to all students and in compliance with Title IX. Finally, part of the University's ongoing climate checks will

include informing students about to whom they can report concerns of sexual misconduct (including sex discrimination and/or sexual harassment/violence), such as the Title IX Coordinator or a counselor, as described in other provisions of this Agreement. The University will submit proposed future revisions to its climate check tool(s) for OCR review and approval during the monitoring of the Agreement.

Reporting Requirement: By December 1, 2016, the University will provide documentation for OCR review and approval, demonstrating implementation of Action Item VII, including a description of how, when and by whom the climate check(s) were completed; copies of aggregate data of student and employee written responses to surveys or narrative summaries of verbal responses; summaries of other relevant information obtained; and documentation demonstrating the actions that the University plans to take in response to the information gathered during the climate checks. By August 1, 2017 and the same date in 2018, the University will provide OCR with the same documentation regarding assessments conducted and any responsive actions taken, for OCR review and approval.

VIII. Individual Remedies

The University will issue, by certified mail, a written offer to reimburse out-of-pocket expenses for any counseling therapy, or academic services for Complainant #1 and Complainant #2 from the date of notice to the University through the execution date of this Agreement to each complainant that relates to the incidents that are the subject of these complaints. Reimbursement shall be contingent upon receipt by the University of written, supporting documentation such as billing invoices, receipts, or other similar records of the complainant's out-of-pocket expenses for counseling therapy, or academic services. Reimbursement for academic services shall be limited to courses or tutoring taken at the University or, if taken elsewhere, to fulfill an academic requirement of the University. The University's letter will inform each complainant that she has thirty (30) calendar days from the date of the letter to accept the offer by providing written notice of acceptance to the University.

Reporting Requirement: By December 5, 2016, the University will provide OCR with a copy of the letter that it sent to each complainant offering reimbursement for counseling/academic/therapy services for each complainant, and copies of each complainant's response, in compliance with Action Step VIII. If Complainant #1 or Complainant #2 accepts the University's offer, the University will provide OCR with documentation substantiating that it provided reimbursement for such services, in compliance with Action Step VIII.

IX. Complaint Reviews and Student Focused Remedies

1. In accordance with Title IX and the standards outlined in Action Step IV of this Agreement, the University will review the complaints and reports of sexual harassment and/or sexual assault made from January 1, 2010, through the date of this Agreement to determine whether the University investigated each complaint or report promptly and equitably, including but not limited to, assessing: whether the appropriate definitions and analyses were used under Title IX, the appropriate evidence standard to make determinations regarding allegations of sexual

misconduct, the equal opportunity of the parties to provide witnesses and other evidence, the interim relief provided to protect the complainant during the pendency of the investigation, the written notice of the outcome (including any appeal) and appeal rights to the complainant and the accused, and the steps taken to prevent the recurrence of sexual misconduct and to address any hostile environment created by the harassment and/or assault. For any incidents which the University determines were not investigated in accordance with Title IX, the University will take appropriate action to address any problems identified in the manner in which these complaints were handled, including reopening the investigation and conducting an investigation that complies with the requirements of Title IX, and/or providing appropriate remedies that may still be available for the complainants and/or accused students in these cases, including, referrals to counseling or academic assistance or adjustments, or other appropriate relief. These reviews will at a minimum carefully scrutinize issues noted by OCR during the course of this investigation. The University will offer counseling or other appropriate services to individual students during its review and/or reinvestigation of any of the incidents. The University will submit the results of its review conducted pursuant to Action Step IX to OCR for review and approval. While this assessment will cover all complaints during the relevant time period, it will specifically address the following:

- a. For the five incidents identified by OCR under separate cover, where the University did not conduct an investigation under its Title IX policies and procedures, the University will conduct and/or complete its investigation of the allegations under Title IX. As part of this process, the University will determine whether new witnesses need to be interviewed, whether previously interviewed individuals need to be contacted for follow-up questioning and whether further documentation needs to be obtained. The University will ensure that the investigation is adequate, reliable and impartial in accordance with Title IX, and the University will provide each party with a written summary of its findings. If the University determines that the allegations of sexual harassment and/or sexual assault are substantiated, the University will offer remedial services, including an offer of counseling and/or academic services to the victim. In addition, the University will ensure that the Title IX Coordinator is advised of the outcome of each review and that each review is appropriately documented.
- b. For the nine incidents identified by OCR under separate cover where the University's documentation did not support that the parties were allowed to provide evidence and witnesses, the University will assess whether, in conducting its initial investigation, both parties were provided with an equal opportunity to present witnesses and other evidence. In the event that the University determines that any party in any of the above-referenced incidents was denied this

opportunity, the University will reinvestigate the incident under Title IX and in accordance with the standards outlined in Action Step IV of this Agreement. As part of this process, the University will determine whether new witnesses need to be interviewed, whether previously interviewed individuals need to be brought in for follow-up questioning and whether further documentation needs to be obtained. The University will ensure that the investigation is adequate, reliable and impartial in accordance with its revised procedures, and the University will provide each party with a written summary of its findings. If the University determines that the allegations of sexual harassment and/or sexual assault are substantiated, the University will offer remedial services, including an offer of counseling and/or academic services to the victim. In addition, the University will ensure that the Title IX Coordinator is advised of the outcome of each review and that each review is appropriately documented.

- c. For the 26 incidents identified by OCR under separate cover where the documentation did not support that the victim was provided with interim measures or not advised of the available on campus and off campus resources, the University will assess whether there are any appropriate remedies that may still be available for the complainants in these cases, such as counseling and/or academic adjustments, and, if appropriate, will make an offer in writing to the complainant for the provision of such services. In addition, the University will ensure that the Title IX Coordinator is advised of the outcome of each review and that each review is appropriately documented.
- d. For the eight incidents identified by OCR under separate cover where the victims were not notified of the outcome of the investigation in writing, the University will provide written notice to the parties of the outcome of its investigation of the complaint. In addition, the University will ensure that the Title IX Coordinator is advised of the outcome of each review and that the notice to each party is properly documented.

Reporting Requirements:

- 1. By March 31, 2017, the University will submit to OCR for review and approval the results of its review conducted pursuant to Action Step IX, including documentation of its investigation and/or reinvestigation of the Incidents referenced in Action Step IX.1.a and Action Step IX.2.b, and determinations regarding remedies for Incidents referenced in Action Step IX.2.c.. The report will specifically identify any sexual misconduct complaints or reports that were not handled promptly and equitably, all supporting materials relating to the

University's review and the University's planned action(s) to address any problems identified in the review.

2. Within 45 days of OCR's approval, the University will take appropriate action to address any problems identified in its review and provide documentation of these actions to OCR.

X. Record Keeping

1. The University will submit documentation of its centralized record keeping process for documenting and tracking complaints of sexual harassment for OCR review and approval. The University will ensure that this process requires the University to maintain information that includes the location where the incident took place, the name of the individual who reported the allegation, the identification of the alleged victim and alleged perpetrator, summaries of witness interviews, documentation of investigative steps completed and the determination, including disciplinary actions, if any, of all parties involved. The University will demonstrate that the process developed by the University requires that the University maintain all evidence listed herein pursuant to the University's document retention policies. The University will also produce documentation evidencing that the process requires the University to maintain information regarding requests for confidentiality, the individual responsible for assessing the University's determination regarding the request for confidentiality, as well as interim and/or remedial services provided to the complaining party, including referrals to counseling and/or academic services in accordance with University document retention policies. The University will also indicate the individual(s) responsible for maintaining and reviewing this information and the location where the records will be maintained.
2. The University will provide case files for each incident alleging sexual harassment, including sexual assault and sexual violence, investigated at the University during the preceding academic year: a description of how the incident came to the University's attention (i.e., whether reported by a student or parent, or witnessed by a staff member), the location where the incident took place, a description of the incident, a detailed written narrative describing how the University investigated the incident, including the names of all witnesses interviewed and a list of any documents or other evidence reviewed, a statement as to whether the University concluded that sexual harassment occurred or did not occur and a description of the steps taken by the University to remedy any harassment that occurred and prevent its recurrence.

Reporting Requirements:

1. By November 30, 2016, the University will provide for OCR review and approval a description of its record-keeping process developed under Action Step X.1.
2. By December 31, 2016, and at the end of each calendar year through the monitoring of this Agreement, the University will provide OCR with documentation demonstrating that it has implemented Action Step X.2, including copies of the initial

report, any records, and the investigative files, including those of the University's Title IX Coordinator, showing the response and remedies obtained, if any.

XI. Code of Conduct

The University will review and revise its *Student Code of Conduct* as needed to ensure that it is consistent with its revised Title IX policies and procedures referenced above in Action Step IV.

Reporting Requirement: By February 1, 2017, the University will submit to OCR its revised *Student Code of Conduct* and documentation confirming that it has publicized and disseminated its revised *Student Code of Conduct*, including a description of how it was distributed, copies of its revised student handbook(s) and a link to its webpage where the revised *Student Code of Conduct* is located.

XII. Memorandum of Understanding (MOU)

The University will review its existing Memorandum of Understanding (MOU) with the local law enforcement agency responsible for investigating sexual violence. The University will supplement or amend the MOU to make clear that a University student may pursue a criminal action with law enforcement and a sexual harassment complaint through the University at the same time regarding the same incident and that, where feasible and applicable, law enforcement will assist the University in obtaining/testing relevant forensic evidence. The MOU will clearly outline how the relevant law enforcement agencies will coordinate in such cases.

In addition, the MOU will outline the steps Title IX Coordinator, University Police and local law enforcement will take to promptly notify each other when they receive a complaint of sexual harassment, including sexual violence and sexual assault, and to what extent, if any, they will coordinate efforts on behalf of the University to promptly and equitably respond, as well as to accurately and thoroughly document those efforts, including all investigatory steps taken.

The University will develop written protocol with University Police that will specify when a complaint of sexual assault is received, University Police will refer the complainant to the University's Title IX Coordinator and to local law enforcement if the complainant desires to file criminal charges.

Reporting Requirement: By February 1, 2017, the University will provide OCR with a copy of its MOU with local law enforcement and the written protocol with University law enforcement. By February 1, 2017 and the same date in 2018 and 2019, the University will submit to OCR documentation verifying that the MOU and protocol are being followed, including with respect to complaints of sexual misconduct received by University law enforcement.

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 regulations implementing Title IX, at 34 C.F.R. Sections 106.8(a), 106.8(b), 106.9, and 106.31, which were at issue in this case.

The University also 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 regulations implementing Title IX, at 34 C.F.R. Sections 106.8(a), 106.8(b), 106.9, and 106.31, which were at issue in this case.

In addition, 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 sixty (60) calendar days to cure the alleged breach.

/s/

9/6/2016

Ronald H. Nowaczyk
President
Frostburg State University

Date