

RESOLUTION AGREEMENT

Buffalo State College, State University of New York OCR Case No. 02-15-2085

The U.S. Department of Education, Office for Civil Rights (OCR) and Buffalo State College, State University of New York (the College), enter into this agreement to resolve the above-referenced complaint. The College assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681 et seq., and its implementing regulation at 34 C.F.R. Part 106.

Action Item 1: Individual Relief for the Complainant

The College has advised OCR that it has already reimbursed the complainant for tuition she paid for the spring 2015 semester. By October 31 2017, the College will extend to the complainant a written offer of reimbursement for College expenses (including fees, housing, books, and supplies) for the spring 2015 semester. The written offer will also include an offer to reimburse the complainant, if appropriate, for expenses for counseling that the complainant may have incurred during the spring 2015 semester, or afterward, as a result of the alleged sexual assault. The written offer to the complainant will provide the complainant with a minimum of 30 calendar days to respond and provide documentation of her counseling and other expenses to the College.

Reporting Requirements:

- a) By November 30, 2017, the College will provide to OCR a copy of the written offer made to the complainant, as well as the complainant's response, if any.
- b) By December 15, 2017, the College will provide documentation to OCR demonstrating that the College has reimbursed the complainant, if appropriate, for expenses, as specified in Action Item 1 above.

Action Item 2: Investigation of Complainant's Report of Sexual Assault

By November 30, 2017, the College will retain a qualified investigator(s), not employed by the College¹, to complete an investigation of the complainant's report of sexual assault, made on XXXXXXXX XX, XXXX, and ensure that the investigation complies with Title IX. The investigation of the complainant's report of sexual assault will involve, at a minimum, the following: providing the complainant and/or her representative with an opportunity to provide additional information or identify any other witnesses relevant to her report; conducting a detailed review of all information previously provided by the complainant, and/or on her behalf, to the College in general, the Buffalo State College/University Police Department (UPD), the College's Athletic Department, the College's Director of Judicial Affairs, and the College's Title IX Coordinator; interviewing the respondent and all witnesses, as appropriate; and, making a

¹ The individual may be affiliated with the State University of New York system.

determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports by a preponderance of the evidence a finding that a sexual assault occurred. The investigation will be completed within 60 days, and the outcome of the investigation will be communicated to the complainant and the respondent in writing. If the complainant fails to respond or indicates an unwillingness to proceed with further investigation, the College will note this information in its reporting requirement; however, the College will attempt to conduct an investigation with the information available to the College from the complainant's XXXXXXXX XX, XXXX report of sexual assault.

Reporting Requirements:

- a) By October 31, 2017, the College will submit to OCR, for review and approval, the name(s) of the individual(s) it proposes to retain to complete the investigation, along with the individual's relevant education, training, and work or professional experience. OCR will respond within 15 calendar days.
- b) By December 30, 2017, the College will submit to OCR, for review and approval, a report documenting the procedures used to conduct its investigation, as well as the outcome of the investigation; proof that written notice of the outcome was provided to the complainant and the respondent; any corrective actions deemed necessary; and, a timeline for implementation of the corrective actions, if necessary. The College will also provide all documentation obtained relevant to the investigation.

Action Item 3: Consulting for the Title IX Coordinator

By November 15, 2017, the College will retain a qualified individual (the Consultant) to provide monthly consulting to the Title IX Coordinator regarding processing, investigating, adjudicating and/or resolving allegations of sexual harassment, including sexual assault/violence. On a monthly basis, the Title IX Coordinator will inform the Consultant of any complaints/reports of incidents of sexual harassment and sexual assault/violence she received in the last 30 days, and how she has processed those complaints/reports. The Consultant will provide feedback to the Title IX Coordinator regarding her investigation of any such complaints and any related prevention efforts that may be effective.

Reporting Requirements:

- a) By October 31, 2017, the College will submit to OCR, for review and approval, the name(s) of the individual(s) it proposes to retain as the Consultant for the Title IX Coordinator, along with the individual's relevant education, training, and work or professional experience. OCR will respond within 15 calendar days.
- b) By December 31, 2017, and again by June 30, 2018, the College will provide documentation to OCR demonstrating that consulting was provided to the Title IX Coordinator consistent with Action Item 3, including the dates on which consulting sessions were held.

Action Item 4: Title IX Training for College Staff

By November 30, 2017, the College will retain a qualified individual(s), not employed by the College², to provide training to all staff who are responsible employees for recognizing and reporting incidents of sexual harassment. The training will cover, at a minimum: the College's current grievance procedures; the obligation of responsible employees to report sexual harassment, how to recognize and identify sexual harassment, including sexual assault/violence and behaviors that may lead to and result in sexual violence; the College'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 College staff; the student's option to request confidentiality and available confidential advocacy, counseling, or other support services; the student's right to both file a sexual harassment complaint with the College and report a crime to campus 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 violence and its effects on students; appropriate methods for responding to a student who may have experienced sexual violence; and, the impact of trauma on students who experience sexual violence. During the training, the College will provide copies of its current Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess.

Reporting Requirement:

By December 30, 2017, the College will provide documentation to OCR demonstrating that training was provided by the College in accordance with Action Item 4 above. The documentation will include, at a minimum, the name(s) and credentials of the trainer(s); the date(s) and time(s) of the training(s); a copy of any training materials used or distributed during the training; and, the names and titles of the individuals who attended the training. Documentation regarding training provided to College staff before the date of this Agreement may be submitted in response to Action Item 4.

Action Item 5: Handling of New Complaints:

By July 31, 2018, and by the same date in 2019, the College will provide documentation to OCR demonstrating that the College has responded promptly and equitably to complaints or reports of sexual harassment, including sexual assault/violence, received during academic years 2017-2018 and 2018-2019, respectively. This documentation will include at a minimum, for each complaint, the names of complainants and respondents; the conduct alleged; information about the individual(s) who received and processed the complaints; the date the College received the complaint; a description of the allegation and/or conduct; a description of how the investigation was conducted (including whether and how many witnesses were interviewed, and other evidence obtained); a description of any interim measures provided to the parties (e.g., no contact order, changes in academic or living situations, counseling, health and mental health services, escort services, academic support); the date on which the investigation was completed or the status of the case (e.g. investigation is ongoing, the investigation is suspended due to a request from law enforcement, the College is assessing discipline to be imposed, etc.); the

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outcome of the complaints (e.g., referred for a disciplinary hearing or to human resources, accused found responsible, accused found not responsible); the date on which any disciplinary hearings or other proceedings were completed; the outcome of any disciplinary matters related to the investigation; the date on which any appeals were completed; a description of any other remedies provided to the complainant; and, a description of any trends or patterns identified from the complaints, and any actions taken in response to trends or patterns identified. If the College submits any files before the case is complete, the College will flag those files as incomplete, and upon request, re-submit those files once the case is completed.

Reporting Requirement:

By July 31, 2018, and by the same date in 2019, the College will provide the documentation required in Action Item 5 to OCR.

The College 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 College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §§106.8(b) and 106.31. Upon completion of the obligations under this agreement, OCR shall close and dismiss this case.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

10/5/17
Date

/s/
Katherine S. Conway-Turner, Ph.D.
President (or designee)
State University of New York
Buffalo State College

10/12/17
Date

/s/
Timothy C.J. Blanchard
Director – Region II
U.S. Department of Education
Office for Civil Rights