

## **RESOLUTION AGREEMENT**

Among the University of Montana - Missoula,  
the U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section and  
the U.S. Department of Education, Office for Civil Rights

OCR Case No. 10126001  
DOJ DJ Number 169-44-9

### **BACKGROUND AND JURISDICTION**

The U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section (“DOJ”), has completed the above-referenced investigation and compliance review of the handling by the University of Montana – Missoula (“University”) of allegations of sexual assault and harassment under Title IX of the Education Amendments of 1972 (“Title IX”) and Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c, et seq. (“Title IV”). The U.S. Department of Education, Office for Civil Rights (“OCR”) has joined DOJ in the Title IX compliance review.<sup>1</sup>

Based on DOJ’s investigation and compliance review, DOJ and OCR (jointly referred to as the “United States”) identified concerns regarding the University’s handling of sex-based harassment and its implementation of Title IX’s regulatory requirements. The United States recognizes that, prior to and during the course of the investigation, the University appointed a Title IX Coordinator, adopted policies and procedures regarding sex-based harassment, responded to complaints, and developed and provided training to employees and students. By taking these and other steps to address sex-based harassment, the University has demonstrated its commitment to meeting its obligations under Title IX and Title IV. Through this Resolution Agreement, the University has indicated its willingness to further implement actions that remedy the United States’ concerns identified in the attached Letter of Findings and to ensure the University’s compliance with Title IX and Title IV.

### **TERMS OF THE AGREEMENT**

To resolve the concerns identified in the Letter of Findings, the University will take effective steps designed to: prevent sex-based harassment in its education programs and activities, including clarifying its policies and procedures applicable to various types of sex-based

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<sup>1</sup> The Special Litigation Section (SPL) of the Civil Rights Division at the Department of Justice has conducted a related but separate investigation of the University’s Office of Public Safety (OPS) among other law enforcement entities. That investigation’s findings, which are based on independent assessments of compliance with the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d, are set out in a separate report and are not addressed in this letter; however, because OPS is covered by and must comply with the University’s Title IX obligations, OPS is referenced in this letter and required to participate in certain remedies required by the enclosed Agreement, such as training for first responders. To the extent that SPL’s findings regarding OPS under 42 U.S.C. § 14141 and 42 U.S.C. § 3789d also implicate Title IX in ways not addressed by the remedies in this Agreement, those findings will be addressed by any remedies sought from the University by SPL.

harassment; fully investigate conduct that may constitute sex-based harassment; appropriately respond to all conduct that may constitute sex-based harassment; and mitigate the effects of sex-based harassment, including by eliminating any hostile environment that may arise from or contribute to sex-based harassment. The University also will obtain the services of a third-party consultant mutually agreed upon by the parties (the “Equity Consultant”) to consult with the University in its efforts to comply with the terms of this Agreement as outlined below. In turn, OCR will not initiate an enforcement action and DOJ will not initiate litigation regarding the United States’ Title IX and Title IV findings raised as of the date of this Agreement provided the University implements the provisions of this Agreement in good faith and subject to the terms in Section X below.

As used in this Agreement, the term “sex-based harassment” includes both sexual harassment, including but not limited to sexual assault, and gender-based harassment. The term “sexual harassment” means unwelcome conduct of a sexual nature.<sup>2</sup> The term “gender-based harassment” means non-sexual harassment of a person because of the person’s sex and/or gender, including, but not limited to, harassment based on the person’s nonconformity with gender stereotypes. For purposes of this Agreement, “sex discrimination” includes sex-based harassment, other discrimination on the basis of sex, and retaliation relating to complaints of sex discrimination. The term “employee” means any non-student employee of the University, including but not limited to faculty, administrators, Office of Public Safety (“OPS”) employees, and staff. The term “student employee” means a student who is enrolled at and employed by the University; allegations of sex discrimination against student employees may require the University to take measures applicable to both students and employees. The term “University Court” is the tribunal consisting of students, faculty, and staff that holds hearings regarding alleged violations of the Student Conduct Code (SCC) under certain circumstances prescribed by the SCC.

This Agreement will remain in force for at least three (3) academic years, and will not terminate until at least 60 days after the United States has received all of the reporting required through the first semester of the 2015-2016 school year. The United States will monitor the implementation of the Agreement until it determines that the University has fulfilled the terms of this Agreement and is in compliance with Title IV, Title IX, and the implementing regulations at 28 C.F.R. Part 54 and 34 C.F.R. Part 106, which were at issue in this case.

## **I. EQUITY CONSULTANT**

The University will retain an Equity Consultant with expertise in the area of sex-based harassment prevention and training in higher education to:

- A. Evaluate and recommend revisions to the University’s policies, procedures, and practices for preventing, investigating, and remediating sex-based harassment, as required by Section II.A below;

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<sup>2</sup> Although “sexual assault” is a form of “sexual harassment,” where this Agreement refers to “sexual assault” and “sexual harassment” separately, it is differentiating sexual contact, including intercourse, without consent (“sexual assault”) from unwanted conduct of a sexual nature that does not rise to the level of sexual assault.

- B. Develop and provide the mandatory Title IX training required by Section V.A below; and
- C. Develop one or more annual climate surveys in consultation with the University, as required by Section VIII.B below, and make recommendations to the University regarding its sex-based harassment policies, procedures, and practices based on the surveys.

Within thirty (30) calendar days from the entry date of this Agreement, the University will retain an individual with expertise in the area of sexual assault and harassment prevention and training in the context of higher education who will serve as the Equity Consultant. If the United States objects to any such individuals on the basis of their qualifications, it will let the University know, and the parties will seek agreement on the Equity Consultant, subject to the enforcement terms in Section X.C. The University will pay all the fees and costs of the Equity Consultant.

## **II. POLICIES AND PROCEDURES**

- A. To clarify, and dispel any confusion about, where and how students should report various types of sex discrimination, by May 30, 2013, the University, in consultation with the Equity Consultant, will draft revisions to its policies and procedures related to sex-based harassment. The University policies and procedures to be revised include, but are not limited to: the Sexual Misconduct, Sexual and Relationship Violence, and Stalking Policy (Policy 406.5); the Sexual Harassment Policy (Policy 406.5.1); the Discrimination Grievance Policy (Policy 407.1); the Discrimination Grievance Procedures; the University's Equal Opportunity Policy/Non-Discrimination Policy (Policy No. 406.4); the Appeals Policy (Policy 203.5.2); and the Student Conduct Code. The University will ensure that these policies and procedures provide an easily accessible and user-friendly system for the prompt and equitable resolution of complaints alleging sex discrimination, use consistently defined terms and reporting options, and include, at a minimum, the following:
  - 1. accurate definitions of various types of sex discrimination, including sexual harassment and sexual assault that may provide the basis for a complaint pursuant to the University's grievance and other procedures (including but not limited to when off-campus misconduct is covered);
  - 2. notice to all members of the University community of the grievance procedures that apply to different types of complaints of sex discrimination by employees, students, or third parties;
  - 3. an explanation of how to file complaints pursuant to the grievance procedures and clarification of other types of complaints that may be filed and with whom those complaints should be filed (e.g., providing more and clearer notice to students of the availability of anonymous reporting and how to report a crime to law enforcement);
  - 4. the name or title, office address, email address, and telephone number of the individual(s) with whom to file a complaint and those responsible for taking action

on sex discrimination, including investigating complaints of sex-based harassment under the grievance procedures, taking appropriate interim measures during the grievance process, seeking disciplinary action against the accused (where appropriate), and handling appeals;

5. clarification of any differences in the role of the individuals with responsibility to take action on sex discrimination (e.g., if the University continues to have separate policies or grievance procedures for sexual assault and sexual harassment or for employees, it must clarify who receives complaints of sexual assault, sexual harassment, and retaliation, and who receives complaints by students, employees, and student employees);
6. provisions ensuring that individuals who play a role in receiving, investigating, and otherwise processing student complaints of sex-based harassment (including, but not limited, to OPS employees, Title IX coordinator(s), Student Assault Resource Center (SARC) employees, resident assistants, deans, and University Court members) are accessible and do not have any actual or perceived conflicts of interest in the process; in the rare situation that such conflicts arise between the fact-finder or decision-maker and the accused or the accuser in a particular case, the actual or perceived conflict will be disclosed to the parties;
7. a requirement that all employees who are aware of sex-based harassment, except for health-care professionals and any other individuals who are statutorily prohibited from reporting, report it to the Title IX coordinator regardless of whether a formal complaint was filed;
8. procedures for adequate, reliable, prompt, and impartial investigation, hearing (where appropriate), and appeal (where appropriate) of all complaints, including the equal opportunity for the parties to access, review, and present witnesses and other evidence;
9. guidance on interim measures to assist or protect the complaining party during the grievance process, as necessary and with the complainant's consent (e.g., arranging for changes in class schedules and/or living arrangements, counseling, modifying class requirements or testing schedules as needed);
10. reasonable timeframes for individuals to report sex-based harassment and reasonable timeframes for the major stages of the investigation, hearing, and appeal;
11. a requirement for written notification to the parties of the outcome of the investigation, hearing and appeal;
12. a requirement that parties be given notice of the opportunity to appeal the findings;
13. an assurance that the University will keep the complaint and investigation confidential to the extent possible;

14. an assurance that the University will take steps to prevent recurrence of any sex discrimination, with examples of the range of possible disciplinary sanctions, and will remedy the effects of the discrimination on the victim(s) and others, with examples of the types of remedies available to victims; and
  15. an explicit prohibition against retaliation that clarifies that allegations of retaliation should be brought to the individual(s) designated to receive such complaints and will be investigated by the University under the same processes and standards outlined in the Title IX grievance procedures.
- B. If the University continues to use the Student Conduct Code to investigate or remedy complaints of sex discrimination, the University will draft revisions to the Student Conduct Code that will provide for the same type of prompt and equitable grievance process required by Section II.A above.
  - C. If the University decides to use the Student Athlete Conduct Code to address allegations of sex discrimination involving student athletes, the University will draft revisions to this Code that will ensure that this part of the grievance procedures is consistent with the prompt and equitable grievance process required by Section II.A above.
  - D. On or before May 30, 2013, the University will submit proposed revisions to the United States of all of its policies, procedures, and conduct codes related to sex discrimination. If the United States chooses to provide comments on the University's proposed revisions, the University will incorporate the United States' comments unless there is disagreement, in which case the University and the United States will work together in good faith to resolve the disagreement. If the parties are unable to agree on the revisions within 30 days of the United States providing notice of any concerns, the United States may pursue relief under the enforcement provisions of Section X.C below.
  - E. The University will adopt the revised policies and procedures in Sections II.A-D within fourteen (14) calendar days of approval from the United States. It is the intent of the parties that the revised policies, procedures, and internal guidance be adopted no later than July 15, 2013.
  - F. Once the University adopts policies and procedures related to sex discrimination pursuant to the terms above, the University will not substantively modify those policies and procedures during the period of the Agreement without the approval of the United States. Such approval will not be unreasonably withheld. All requests to modify such policies and regulations must be made in writing at least thirty days before the University intends to adopt the modification. The United States may reject proposed modifications that are not consistent with the terms of this Agreement or applicable federal laws.

### **III. NOTICE OF REVISED POLICIES AND PROCEDURES**

By the start of the 2013-14 academic year, the University will provide all students and employees with written notice regarding the revised policies prohibiting sex discrimination and the grievance procedures for resolving sex discrimination complaints

required by Sections II.A-E, as well as information on how to obtain a copy of the policies and grievance procedures. The University, at a minimum, will make this notification available through the University's website, electronic mail messages to employees and students, any regularly issued newsletters (in print or online), and any other means of notification the University can use to ensure that the information is widely disseminated.

#### **IV. TITLE IX COORDINATOR**

The University will publish its notice of the Title IX Coordinator's name or title, office address, email address, and telephone number consistent with the requirements of Title IX at 28 C.F.R. § 54.135(a) and 34 C.F.R. § 106.8(a), within fourteen (14) calendar days of the United States' approval of the notice. If the University chooses to designate one or more persons to assist the Title IX Coordinator, the publication will make clear the scope of each person's responsibilities (e.g., who will handle complaints of sex discrimination and who will handle complaints by students, employees, student employees, and faculty), and will designate the University's Title IX Coordinator to have ultimate oversight responsibility with regard to Title IX matters. Additionally, the University will publish a notice of nondiscrimination with the Title IX Coordinator's information consistent with the requirements of Title IX at 28 C.F.R. § 54.140 and 34 C.F.R. § 106.9. By August 22, 2013, the University will disseminate this notice through the University's website, student handbook, and any other means of notification the University deems effective to ensure that the information is widely disseminated.

#### **V. TRAINING OF EMPLOYEES AND PROFESSIONAL DEVELOPMENT**

- A. By August 22, 2013, the University, in consultation with the Equity Consultant, will develop Title IX training, and the Equity Consultant will provide the Title IX training to its Title IX Coordinator, members of the University Court, and any other University employees (e.g., OPS employees) who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination or who will otherwise assist in the coordination of the University's compliance with Title IX. This training will be in person and cover:
1. the University's new policies and grievance procedures for Title IX complaints required by Section II above;
  2. sex discrimination and the University's responsibilities under Title IX and Title IV to address allegations of sex-based harassment, whether or not the actions are potentially criminal in nature;
  3. recognizing and appropriately responding to allegations and complaints pursuant to Title IX and Title IV, including conducting interviews of victims of sexual assault and communicating in a fair, non-biased, and objective manner that does not discourage victims from reporting or continuing with their complaints (such training shall include role-playing and other practice activities);
  4. how to conduct and document adequate, prompt, reliable, and impartial Title IX investigations, including the appropriate legal standards to apply in a Title IX investigation and how they differ from those in a criminal investigation;

5. how to notify complainants of the right to file a criminal complaint and how to file one;
  6. what information regarding sex-based harassment allegations may be shared among University employees, including OPS employees, and other law enforcement officials;
  7. how to coordinate and cooperate with law enforcement during parallel criminal and Title IX proceedings;
  8. the link between alcohol and drug use and sex-based harassment;
  9. best practices to address that link, including, but not limited to:
    - a. how to address the challenges of investigating incidents involving alcohol or drug use; and
    - b. how to encourage victims and witnesses of sex-based harassment to cooperate with investigations if they have concerns about possible conduct implications of their own alcohol and drug use; and
  10. a written assessment requiring participants to demonstrate that they have learned the material in the Title IX and Title IV training.
- B. By October 15, 2013, the University will provide Title IX training to all resident assistants, members of the SARC, the Curry Student Health Center, OPS, Academic Advisors, and other University employees who are likely to be the first to receive complaints of sex discrimination. The training will be in person and provide attendees with essential guidance and instruction on recognizing and appropriately responding to initial allegations and complaints of sex discrimination including fair and objective communication that does not discourage victims from reporting. The training also will instruct attendees on:
1. how students may invoke the Title IX complaint and grievance procedures required by Sections II.A-D above, as well as any related procedures (e.g., the SCC and Student Athlete Conduct Code procedures), and the first responder's responsibility to facilitate the filing of such complaints;
  2. clear examples of what types of actions may constitute sex discrimination in the University's programs or activities, including but not limited to different types of sex-based harassment, and what may provide the basis for a complaint pursuant to the University's grievance and other procedures;
  3. how the Title IX process differs from the criminal one, how to notify complainants of the right to file a criminal complaint, and how to file one;
  4. how to contact the Title IX coordinator; and
  5. how to provide students with this information verbally and through the resource guide required by Section VII below (i.e., in hard copy and/or electronic form) whenever attendees respond to such complaints.
- C. By December 20, 2013, the University will provide Title IX training to all University staff and faculty. The training will be designed to provide an understanding of the University's responsibilities under Title IX to address allegations of sex-based harassment, whether or not the actions are potentially criminal in nature. In addition, the training will cover the University's new policies and grievance procedures for Title IX complaints required by Section II above, and informing complainants of their right to file

Title IX and criminal complaints and how to do so. The training also will cover the University reporting requirement in Section VI.A below for reports of sex discrimination, and the University's policies and practices regarding the confidentiality of such reports. The training will provide clear examples of what types of actions may constitute sex discrimination in the University's programs or activities, including but not limited to different types of sex-based harassment, and what may provide the basis for a complaint pursuant to the University's grievance and other procedures. As part of the training, the University will issue surveys to staff and faculty to assess their knowledge of how to complain about and respond to sex-based harassment, as well as the effectiveness of the training.

- D. Beginning with the 2013-14 academic year, the University will ensure that all new employees complete the training required of them pursuant to Sections V.A-C above within one year of their employment start date.

## **VI. TRACKING OF COMPLAINTS OF SEX-BASED HARASSMENT**

By May 21, 2013, the University, in consultation with the Equity Consultant, will develop to the satisfaction of the United States and institute a system for tracking and reviewing reports (including reports that do not result in the filing of a discrimination complaint), investigations, interim measures, and resolutions of student and employee conduct that may constitute sex-based harassment to ensure that such reports are adequately, reliably, promptly, and impartially investigated and resolved. The system will require, at minimum, that:

- A. all University offices, with the exception of health-care professionals and any other individuals who are statutorily prohibited from reporting, will notify the Title IX Coordinator within 24 hours of receiving information about sex discrimination, regardless of whether a formal complaint was filed, for the purpose of ensuring that individuals subject to discrimination are consistently and promptly receiving necessary services and information;
- B. the Title IX Coordinator will enter into an electronic, confidential database or spreadsheet at least the following fields of information: the date and nature of the complaint or other report (e.g., bystander or mandatory employee report); the name of the complainant or that the complaint was anonymous; the name of the person(s) who received the complaint or made the report; the name(s) of the accused; the name(s) of the person(s) assigned to investigate the complaint, take any interim measures, and bring disciplinary charges (where relevant); the interim measures taken, if any; the date of the findings; the date of any hearing; the dates of any appeals; and a summary of the findings at the initial, hearing, and appeal stages, including any actions taken on behalf of the alleged victim and any disciplinary or other actions taken against the accused; and
- C. the Title IX Coordinator will maintain records of all complaints, investigations, findings, the basis for those findings, and appeals, including, but not limited to: the complaint; the names of the complainant (if available), the accused, and witnesses; any statements or other evidence submitted or collected; interview notes; correspondence relating to the



investigation; actions taken on behalf of the alleged victim(s) of sex discrimination; actions taken against the accused, including any temporary measures (e.g., temporary eviction from University housing); records of any discipline or proposed discipline; records of findings communicated to the parties; and records of any appeals.

## **VII. RESOURCE GUIDE DEVELOPMENT**

In order for the University to ensure it meets its obligation to explain clearly to students where and how to file complaints of various types of sex-based harassment, by July 15, 2013, the University will develop and submit to the United States for approval a resource guide on sex-based harassment that is accessible to students and written in easily understandable language. The guide will contain information on: what constitutes sexual harassment and sexual assault; clear examples of what types of actions may constitute sex discrimination in the University's programs or activities, including but not limited to different types of sex-based harassment, and what may provide the basis for a complaint pursuant to the University's grievance and other procedures; what to do if a student has been the victim of sexual assault or sexual harassment; contact information for all on- and off-campus resources for victims of sexual assault; information on how to obtain counseling, medical attention, and academic assistance; and where complaints can be directed, with clear explanations of the criminal and non-criminal consequences that flow from complaints directed to particular entities. The guide will prominently state that the victim of sexual assault or sexual harassment has the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the University's grievance and disciplinary process, or to pursue these processes simultaneously. The guide will: make clear how to file a Title IX complaint of sex-based harassment (including clarifying any distinctions for sexual assault and sexual harassment if such distinctions continue to exist) or retaliation with the University; provide the name and contact information for the University's Title IX Coordinator(s); include a description of the Title IX Coordinator's role; cite links to the new policies and grievance procedures required by Section II.A-D; and identify interim measures the University can implement, including measures that can be taken if the accused lives on campus and/or attends classes with the complainant.

Within 30 calendar days of the United States approving the guide, the University will provide the United States with documentation that it has published the guide, including a link to where the guide is posted on the University's website, and information about the locations and personnel on campus who have the guide available to students, including but not limited to all first responders (e.g., SARC employees, resident assistants, the Title IX coordinator(s), and OPS employees) who are required to offer this guide to all persons raising allegations of sex-based discrimination and to offer to send them the link to the guide by email or text message, as required by Section V.B above.

## **VIII. EDUCATIONAL CLIMATE**

- A. The University will ensure that the educational environment of each enrolled student who reported sexual harassment, sexual assault, or retaliation is free of harassment and retaliation, and if not, will take steps to eliminate the hostile environment (e.g. by providing academic services, counseling, escort services, and changing housing

assignments and scheduling for classes, dining services, etc.). Each academic semester, the University shall document its efforts to contact such students and any steps it takes to address the student's environment, including the nature and duration of any such steps.

- B. The University will consult with the Equity Consultant to develop one or more annual climate surveys for all students to: 1) assess students' attitudes and knowledge regarding various types of sex-based harassment, including (i) sexual harassment, (ii) sexual assault, and (iii) retaliation; 2) gather information regarding students' experience with sex discrimination while attending the University; 3) determine whether students know when and how to report such misconduct; 4) gauge students' comfort level with reporting such misconduct; 5) identify any barriers to reporting; 6) assess students' familiarity with the University's outreach, education, and prevention efforts to identify which strategies are effective; and 7) solicit student input on how the University can encourage reporting of sexual harassment, sexual assault, and retaliation, and better respond to such reports.
1. By the end of the 2012-13 academic year, the University will conduct student focus groups and other means of gathering student input regarding the topics in Section VIII.B that will be the subject of the annual climate surveys. The University will use the focus group data and other student input to inform its development of the surveys and the training required under this Agreement.
  2. The annual climate surveys will be administered in the fall semesters of 2013, 2014, and 2015 to all students, and will allow for respondents to answer the survey anonymously.
  3. The University will analyze the results of the survey within sixty (60) calendar days of the date the surveys are administered for each year. The analysis will include recommendations for the climate issues identified through the surveys.
  4. Based on a review of each climate survey's results and the recommendations of the Equity Consultant, the University will work together in good faith with the Equity Consultant to agree on appropriate and responsive actions to be taken by the University.
- C. By June 15, 2013, the University will develop a monitoring program to assess the effectiveness of its efforts to prevent and address sex-based harassment and retaliation and to promote a non-discriminatory school climate. At the conclusion of each school year, the University will conduct an annual assessment of the effectiveness of its anti-harassment efforts and submit the assessment to the United States, as required by Section IX. Such assessment will include:
1. A review of student climate surveys (see Section VIII.B) to determine: where and when sex-based harassment occurs; deficits in students' knowledge of what sex-based harassment is, where to report it, and the results of reporting to different resources (e.g., the police, SARC, OPS, the Title IX Coordinator, and a faculty member); barriers to reporting sex discrimination; and recommendations for how the University can better encourage reporting of and improve its response to complaints;

2. A review of all reports of sex discrimination and the University's responses to such reports, particularly with respect to: whether such reports were adequately, reliably, promptly, and impartially investigated and resolved; how many resulted in disciplinary action; the University's actions to remedy the effects of any sex-based harassment and retaliation that occurred (i.e., tracking interim and permanent measures); how many involved particular groups of students (e.g., first-year students, athletes, residents of Greek houses, and off-campus residents); whether any individuals engaged in repeat misconduct; and if so, the University's actions to prevent the repeated misconduct and remedy its effects;
  3. Evaluation and analysis of the data collected, including an assessment of any changes in the number or severity of reported incidents of sexual harassment and sexual assault, particularly among subgroups of students (e.g., first-year students, athletes, residents of Greek houses, and off-campus residents);
  4. Evaluation of all measures designed to prevent or address sex-based harassment;
  5. Any recommendations elicited from community members, parents, or OPS and other law enforcement officials upon sharing information gathered for the annual assessment (as permitted by federal and state law); and
  6. Any other proposed recommendations for improvement of the University's anti-harassment program and timelines for the implementation of the recommendations.
- D. By July 15, 2013, the University will update its program to provide regular mandatory training to all students to ensure that it covers the University's new policies and grievance procedures for Title IX complaints. The training also will: 1) make students aware of the University's prohibition against sexual harassment, sexual assault, and retaliation; 2) educate students on how to recognize such forms of sex discrimination when they occur; 3) inform students regarding how and to whom any incidents of sexual harassment, sexual assault, and retaliation should be reported; and 4) provide a general overview of Title IX and Title IV, the rights these laws confer on students, the resources available to students who have experienced sexual assault, sexual harassment, and retaliation, and the role and authority of the United States to enforce Title IX, and DOJ's authority to enforce Title IV.
1. These sessions will emphasize: issues around consent in sexual interactions; the criminal, academic, housing, athletic, and student-record-related consequences related to committing sexual assault, sexual harassment, and retaliation; the role of alcohol and drug use in incidents of sex-based harassment, including how such use does not excuse the perpetrator's conduct and how such use relates to consent; clear examples of what types of actions may constitute sex discrimination in the University's programs or activities, including but not limited to different types of sex-based harassment, and what may provide the basis for a complaint pursuant to the University's grievance and other procedures; how bystanders can help; when off-campus misconduct is covered by the University's

policies and grievance procedures; and the potential consequences of lying during an investigation.

2. At a minimum, these sessions will be provided as part of the annual student orientation for new students (including visiting and International students), the class registration process for returning students, and annual residence life orientation for students residing in campus housing. The University also will provide additional mandatory training to all athletes and their coaches on the revised Student Athlete Conduct Code and how it applies to sexual assault, sexual harassment, and retaliation. The University's Athletic Director will assist the designated trainer in providing this training.

3. During the course of this agreement, training will be provided online and in-person during each year of the agreement. Each student will be required to complete both online and in-person training at the earliest opportunity (e.g., new student orientation or class registration), and to renew such training every three years. The University will develop a system for recording the name or identifier of each student who participated in each training required by this Section and the date that each training was completed.

## **IX. REPORTING PROVISIONS**

### **A. Title IX Policies and Procedures**

- The University will provide the United States all documents and information identified in provisions II.A- F in accordance with the timelines set forth above.

### **B. Notice of Revised Policies and Procedures**

- Within 45 calendar days after notice is provided to students and employees of the new grievance procedures, the University will provide the United States with documentation that it has implemented provision III of this Agreement, including copies of the written notices issued to students and employees regarding the new Title IX procedures; 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. Title IX Coordinator/Notice of Nondiscrimination**

- By July 15, 2013, the University will provide the United States with a draft of the notice to be published regarding the Title IX Coordinator and notice of nondiscrimination pursuant to Section IV above.
- Within 30 calendar days of the United States' approval of the draft publication pursuant to Section IV, the University will provide the United States with documentation that it has implemented Section IV, including copies of any printed publications, and web links to any electronic publications containing the notice.

#### **D. Training and Professional Development**

- The University will provide the United States with the training materials and agendas to be used in the trainings conducted pursuant to Sections V.A by May 30, 2013, and Sections V.B and V.C by July 15, 2013. The University will also provide information describing the expertise and experience with regard to Title IX of the person or persons conducting the training pursuant to Sections V.B and V.C of this Agreement. If the United States chooses to provide comments on the proposed training or trainers, it will do so within 45 days of receipt of the materials.
- By December 31, 2013, May 31, 2014, May 31, 2015, and December 31, 2015, the University will provide the United States with the sign-in sheets of each employee by name and job title for each training required by Sections V.A, V.B, and V.C. of this Agreement, and a list of any University employee who failed to participate in such training by name and title.

#### **E. Tracking of Sex-Based Harassment Complaints**

- By July 15, 2013, and thereafter by May 31, 2014, May 31, 2015, and December 31, 2015, the University will provide the United States with documentation demonstrating implementation of Section VI above, including a summary of all sexual harassment, sexual assault, and retaliation allegations reported to the University's Title IX Coordinator during the preceding school year and information about the individual(s) who received and processed the initial complaints, the outcome of the Title IX investigations, as well as the outcome of any Student Conduct Code matters related to the allegations reported to the Title IX Coordinator. The University also will provide an electronic database or spreadsheet of all the data required by Section VI.B above.

#### **F. Resource Guide Development**

- The University will provide the United States with the proposed resource guide in accordance with the timelines set forth in Section VII above. The United States will notify the University in writing if it has any objections to the guide.

#### **G. Educational Climate**

##### Follow-up with Complainants

- By December 31, 2013, May 31, 2014, December 31, 2014, May 31, 2015, and December 31, 2015, the University will provide the United States with a report documenting its follow-up efforts with complainants as required by Section VIII.A.

##### Survey

- By December 31, 2013, 2014, 2015, the University will provide the United States with a report documenting that the annual climate survey has been conducted, and

including the cumulative results of the survey questions, summaries of comments provided in the survey, the University and/or Equity Consultant's analysis of the survey results, and proposed actions based on that analysis and the survey information.

#### Student Training

- By December 31, 2013, May 31, 2014, May 31, 2015, and December 31, 2015, the University will provide the date and duration of each student training session required by this Agreement; copies of all agendas for such training sessions; copies of the training materials distributed at student trainings; electronic access to any training provided through other media; and a list of any students who have yet to participate in the online or in-person training required by Section VIII.D.

#### Monitoring Program

- By July 15, 2013, May 31, 2014, and May 31, 2015, the University will provide the United States with a copy of its annual assessment of the effectiveness of its anti-sex harassment efforts, including any proposed recommendations for improving the University's anti-harassment program. The United States will notify the University in writing if it has any objections to the assessment's proposed recommendations. If at any other time the University seeks to improve its anti-harassment program in ways that contradict a term of this Agreement, it will provide the United States with written notice of the proposed improvement(s) and need not wait until it submits its annual assessment.
- Within thirty (30) days of providing the Office on Violence Against Women (OVW) with reports regarding the University's OVW grant, the University will submit this report to the United States so that the United States has a full understanding of the steps the University is taking to address sex discrimination.

### **X. ENFORCEMENT**

- A. The United States may enforce the terms of this Agreement, Title IX, Title IV, and all other applicable federal laws.
- B. If the University, despite its good faith efforts, anticipates that it will be unable to meet any timeline set forth in this Agreement, it will immediately notify the United States of the delay and the reason for it. The United States may provide a reasonable extension of the agreed timeline.
- C. If OCR or DOJ determines that the University has failed to comply with the terms of this Agreement or has failed to comply in a timely manner with any requirement of this Agreement, one or both agencies will so notify the University in writing and will attempt to resolve the issue(s) in good faith with the University. If OCR or DOJ is unable to reach a satisfactory resolution of the issue(s) within thirty (60) days of providing notice to

the University, OCR may initiate administrative compliance proceedings<sup>3</sup> and DOJ may initiate civil enforcement proceedings in federal court.

- D. The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this agreement, OCR shall give the University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.
- E. The University understands that the United States will monitor this Agreement until it determines that the University has fulfilled the terms of this Agreement and is in compliance with Title IV, Title IX, and the implementing regulations at 28 C.F.R. Part 54 and 34 C.F.R. Part 106, which were at issue in this case.
- F. The University further understands that the United States retains the right to evaluate the University's compliance with this Agreement, including the right to conduct site visits, observe trainings, interview University staff and students (including *ex parte* communications with students and employees other than University administrators), and request such additional reports or data as are necessary for the United States to determine whether the University has fulfilled the terms of this Agreement and is in compliance with federal law.
- G. By signing this Agreement, the University agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. To ensure compliance with this Agreement, OCR and DOJ may require additional monitoring reports or the ability to inspect data or other information maintained by the University as determined necessary by OCR and DOJ.

## **XI. MISCELLANEOUS**

- A. This Agreement is for the purpose of resolving a disputed claim and is not, and will not be construed as, an admission of liability, fault, or wrongdoing of any kind by the University.
- B. This Agreement will remain in force for at least three (3) school years, and will not terminate until at least 60 days after the United States has received all reporting required by this Agreement through the first semester of the 2015-2016 school year.
- C. This Agreement shall not bar any individual from pursuing a complaint under Title IX or Title IV against the University.
- D. This Agreement has binding effect on the parties, including all principals, agents, executors, administrators, representatives, employees, successors in interest, beneficiaries, assigns, and legal representatives thereof.

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<sup>3</sup> OCR may initiate compliance proceedings under 34 C.F.R §§ 100.8-100.12 and 34 C.F.R Part 101.

Signatures of the Parties to the Resolution Agreement



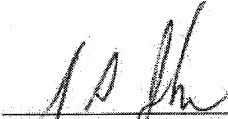
President Royce Engstrom  
Office of the President  
The University of Montana  
Missoula, Montana 59812-3324

Date: May 8, 2013



Anurima Bhargava, Chief  
U.S. Department of Justice  
Civil Rights Division  
Educational Opportunities Section

Date: 5/9/2013



Gary Jackson, Regional Director  
U.S. Department of Education  
Office for Civil Rights  
Seattle Office

Date: 5-8-13