

*Note: On Sept. 1, 2015, the Department of Education's Office of Civil Rights released a Resolution Agreement with Michigan State University regarding its review of how MSU handled Title IX complaints. Below is a copy of the Resolution Agreement in full, annotated with information from MSU on how the university has addressed or is addressing the points raised by the OCR.*

**Resolution Agreement  
Michigan State University  
OCR Docket Numbers 15-11-2098 and 15-14-2113**

Michigan State University (the University) has entered into the following agreement with the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaints and to ensure the University's compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq.*, and its implementing regulation, at 34 C.F.R. Part 106.

This resolution has been entered into voluntarily by the University and does not constitute an admission by the University that it has failed to comply with Title IX or its implementing regulations.

During the course of the investigation, OCR recognizes that the University has engaged in ongoing and proactive efforts to enhance the effectiveness of its policies and procedures, assess and expand the scope of its resources, and expand its educational and programing initiatives, including: developing new and more comprehensive Title IX policies and procedures, creating a University task force on sexual assault and relationship violence, implementing a campus-wide "No Excuses" awareness campaign regarding sexual assault, sexual violence and relationship violence, hiring additional Title IX investigative staff, imposing new Title IX training requirements for faculty and staff, signing memoranda of understanding with all surrounding local enforcement agencies, creating a special victims unit within the University's police department to handle incidents of sexual assault and sexual violence, issuing a campus-wide survey to assess the University's climate with respect to sexual assault and sexual violence, issuing statements in the University newspaper and through emails notifying the University community of the University's commitment to addressing incidents of sexual assault and sexual violence, and creating a new University office (Office of Institutional Equity), that once in place will investigate all claims of harassment and discrimination on campus.

In addition to the steps the University has already taken, the University agrees to the following to ensure that it will promptly and equitably respond to all incidents of sexual and gender-based harassment, assault and violence of which the University has notice (including incidents that the University knew or reasonably should have known about); take prompt and effective steps to end the sexual and gender-based harassment, assault and violence; eliminate any hostile environment; prevent its reoccurrence; and, as appropriate, remedy its effects on the complainant and others.

The term "complainant" used throughout this Agreement refers to an individual who is the

subject of alleged sex discrimination, regardless of how the report comes to the attention of the University, or someone who has made a report of sex discrimination to the University.

#### **A. Public Anti-Harassment Statement**

No later than September 15, 2015, the University President will issue a statement to the University community, including University students, employees, and third parties associated with the University, which will be widely published, including in the University's newspaper and on the University's website, stating that University policy prohibits sex discrimination, including sexual and gender-based harassment, assault, and violence. The statement will encourage any student, employee or third party who believes he or she has been subjected to sex discrimination to report the incident(s) to the University, and note the University's commitment to conducting a prompt and equitable investigation and immediately and appropriately addressing any violation of the University's policies. The statement will inform University community members of how to report allegations of sex discrimination, including sexual and gender-based harassment, assault and violence; will explain the role of the Office of Institutional Equity (the OIE office) and the Title IX Coordinator; will provide contact information for the OIE office and the Title IX Coordinator; and will discuss the interim measures and protections against retaliation and harassment available to individuals reporting such incidents. The statement will inform University community members of the University's responsibility to take prompt and effective steps to end the sexual and gender-based harassment, assault and violence; eliminate the hostile environment; prevent its recurrence; and, as appropriate, remedy its effects. The statement will encourage students 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 and gender-based harassment, assault and violence. The statement will explain that the University will complete investigations in a prompt and equitable manner; and that, after the completion of the investigation, students and employees found to have engaged in acts of sex discrimination, including sexual and gender-based harassment, assault, and violence, will be promptly disciplined. The statement will make clear that such discipline may include, if circumstances warrant, suspension, expulsion or termination.

[From MSU: The university already has provided similar, more concise statements to the campus community during previous academic years in the form of statements from the president; notices about policy changes such as the Relationship Violence & Sexual Misconduct Policy and the University Reporting Protocols: Child Abuse, Sexual Assault, and Child Pornography; and via mandatory e-learning trainings for the campus community.]

**Reporting Requirement:** By October 1, 2015, the University will submit to OCR documentation demonstrating that the anti-harassment statement has been widely published; including copies of the University's newspaper and relevant pages of its website where the statement appeared.

#### **B. Notice of Nondiscrimination**

By September 15, 2015, the University will amend its notice of nondiscrimination to ensure that it meets the requirements of the regulation implementing Title IX, including listing the name, title and contact information (including phone number, office address and e-mail) for its Title IX Coordinator; and states that inquiries concerning the application of Title IX 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).

[From MSU: The university already has a comprehensive non-discrimination statement, while specific Title IX Coordinator and OCR contact information has been made public in other, related policy documents and websites. That information now will be consolidated into one document and posted on the appropriate websites.]

**Reporting Requirements:** By September 15, 2015, the University will provide to OCR for review and approval a copy of its amended notice of nondiscrimination. Within 30 days of OCR's approval of the notice of nondiscrimination, the University will provide to OCR a list of the titles of the publications in which the notice of nondiscrimination appears (e.g. University catalog, website, student handbook) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice.

### C. Title IX Policies and Grievance Procedures

OCR recognizes that the University adopted a comprehensive Relationship Violence and Sexual Misconduct Policy in January 2015. OCR also recognizes that the University is currently engaged in revising the 2015 grievance procedures and other procedures designed to address complaints of discrimination on the basis of sex (including sexual and gender-based harassment, assault, and violence), including its Relationship Violence and Sexual Misconduct Policy, its Anti-Discrimination Policy (ADP)/RVSM Policy Student Conduct Hearing Board Procedures, and its Office of Institutional Equity Complaint Procedures (OIE Complaint Procedures) so that such procedures and any related materials are internally consistent, provide for the prompt and equitable resolution of complaints by students, employees and third parties alleging all forms of sex discrimination (including sexual and gender-based harassment, assault, and violence) against students, employees and third parties, and otherwise fully comply with Title IX and its implementing regulation at 34 C.F.R. §106.8(b). Some of the provisions below are already included in one or more of the University's policy and procedure documents; with regard to such provisions, the University will retain them in the documents that currently exist and will revise all related policies and procedures and other materials to ensure that these are consistent.

[FROM MSU: All of the following requirements are included in the revised Relationship Violence and Sexual Misconduct Policy, which was implemented in January 2015 and revised for Fall Semester 2015. The Anti-Discrimination Policy/Relationship Violence and Sexual Misconduct Policy Student Conduct Review Panel Procedures also have been revised to reflect

these elements, as have the Office of Institutional Equity complaint procedures. All of those documents are available online at [www.oie.msu.edu](http://www.oie.msu.edu).]

The revised policies, procedures, and related documents will include, at a minimum:

1. notice that the procedures apply to complaints alleging all forms of sex discrimination (including sexual and gender-based harassment, assault and violence) against employees, students, and third parties;
2. notice of the procedure and how to file a complaint that is easily understood, easily located and widely distributed; such notice must include the contact information (name or title, office address, email address and telephone number) for the individual with whom complaints may be filed;
3. the name, title and contact information (phone number, office address and email address) for the Title IX Coordinator and notice regarding the role and duties of the Title IX Coordinator and the OIE office in the processing of complaints of sex discrimination, including sexual and gender-based harassment, assault and violence;
4. provisions for the prompt, adequate, reliable and impartial investigation of complaints, including the opportunity for the parties to present witnesses and other evidence and to have similar and timely access to information being considered in the grievance process;
5. designated and reasonably prompt timeframes for the major stages of the grievance process, including provisions for extensions of time, that apply equally to the parties;
6. written notice of the outcome of the complaint, and any appeals, to all parties, including the respondent, the alleged victim and, if different, the complainant;
7. an assurance that the University will take prompt and effective steps to end the sexual or gender-based harassment, assault and sexual or violence; eliminate any hostile environment; prevent its recurrence; and remedy the discriminatory effects on the victim and others as appropriate;
8. where the procedures allow the parties to have a lawyer or other representative at a meeting or proceeding, 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;
9. notice of the opportunity for both parties to appeal the findings, if the procedures allow appeals; and for both parties to participate equally in the appeal process, even if the party has not herself or himself filed an appeal;

10. appropriate definitions and examples of what types of actions may constitute sex discrimination (including sexual and gender-based harassment, assault and violence), including a clear and consistent definition of what does and does not constitute consent to sexual conduct;
11. a statement clarifying that the University's policy and procedures for addressing complaints of sex discrimination, including sexual and gender-based harassment, assault and violence, apply to all University programs and activities; including those conducted off-campus and in the University's professional<sup>1</sup> and graduate schools;
12. an explicit statement that where relevant, if the off-campus misconduct did not occur in the context of a University program or activity, the University will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity;
13. a statement that all employees, other than non-professional counselors or advocates<sup>2</sup> and those employees legally regarded as confidential resources, are expected to promptly report sexual and gender-based harassment, assault and violence that they observe or learn about;
14. a provision explaining that the complainant has the right to decline to participate in an investigation, appear in a proceeding with the respondent present, or otherwise confront the respondent during the grievance process, including during any hearings or appeals;
15. provisions prohibiting the parties from personally cross-examining each other during the grievance process, including during any hearings or appeals;
16. a statement that the University has an obligation to promptly take steps to investigate or otherwise determine what occurred and then to take appropriate steps to resolve the complaint when it knows or reasonably should know about possible discrimination (from any source); regardless of whether the complainant declines to participate in the process. It will also contain a statement that the University will seek to balance a complainant's request for anonymity or not to participate in an investigation with its broader obligation to campus safety; and that the University will respond to complaints, reports, or information about incidents of sex discrimination to stop prohibited sex discrimination, eliminate any hostile environment, take steps to prevent the recurrence of the sex discrimination, and address any effects on campus or in the context of any University programs and activities regardless of location;
17. provisions ensuring that the parties, including the complainant and the respondent,

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<sup>1</sup> The Michigan State University College of Law is an independent entity, with separate policies and processes.

<sup>2</sup> As described in the April 29, 2014, OCR Questions and Answers on Title IX and Sexual Violence.

are afforded regular updates regarding the status of the investigation;

18. If the policy permits the University to act as the complainant for purposes of hearings and appeals, a provision ensuring that the actual complainant is permitted to provide input into whether the University appeals a decision under the grievance process;
19. provisions clarifying that any informal resolution process set forth in the procedures will only be used if the parties voluntarily agree to do so; that the complainant will not be required to resolve the problem directly with the respondent; and a statement that there will be instances when the informal resolution process 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 both parties must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process;
20. a statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination, including sexual and gender-based harassment, assault and violence complaints and making findings related to the allegations;
21. a procedure for promptly and effectively notifying both complainants and respondents of the initiation of an investigation; the potential policy violation(s) at issue; the right to participate in the investigation; the timeframe for responding; and that the investigation may proceed without the participation of either party;
22. a provision notifying complainants that they may pursue a complaint with the University and the police simultaneously; that the University may need to briefly suspend the fact-finding aspect of a Title IX investigation at the request of law enforcement while the law enforcement agency is in the process of gathering evidence; that the University will maintain regular contact with law enforcement to determine when it may begin its investigation; that the University will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, or sooner if the University determines that the evidence gathering process will be lengthy or delayed; and that the University will not delay its investigation until the ultimate outcome of the criminal investigation;
23. a provision indicating that the University will implement appropriate interim measures during any law enforcement agency's investigative period when the University has temporarily deferred its investigation, to assist and protect the safety of the complainant(s) and the campus community and to prevent retaliation;
24. a statement that the University will notify complainants, in writing, that interim measures are available during the University's investigation, and during any student conduct process, including appeals, to protect and support the complainant (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.); where and how to request such interim measures; that the University will take steps to ensure that appropriate interim measures are taken or provided; and that the University will take steps to ensure, where possible and as supported by the available information, that such interim measures minimize the burden on the complainant;

25. with respect to confidentiality of the parties:

- a. an assurance that the complaint and investigation will be kept confidential to the extent possible;
- b. a statement that if the complainant asks that his or her name not be disclosed to the respondent or that no investigation be pursued, it may limit the scope of the University's response;
- c. a statement that Title IX prohibits retaliation, and that the University will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs;
- d. a statement that if the complainant continues to ask that his or her name not be disclosed, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not prevent the University from responding effectively to the harassment and preventing the harassment of others;
- e. a statement that the University will evaluate any confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the University community; and a statement that the factors that the University may consider in this regard include the seriousness of the alleged harassment, the age of the individual harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result;

26. an assurance that the University will not allow conflicts of interest (real or reasonably perceived) by those investigating or adjudicating complaints;

27. a statement that possible disciplinary sanctions that might result from a finding of sexual harassment, sexual assault or sexual violence may include suspension, expulsion or termination; and a statement of the types of remedies that the University can provide to complainants and others as a result of sexual and gender-based harassment, assault or violence;

28. 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; and a clear explanation of how retaliation or retaliatory harassment can be reported to the University;
29. a statement that any complaints filed against students in any specialized programs (e.g., medical school or graduate programs) will be handled through the OIE office, not through the dean or administrative heads of those programs; and
30. a statement that in cases where sexual or gender-based harassment, assault, or sexual or violence is found to have occurred, the University will determine appropriate, enforceable sanctions reasonably calculated to stop the harassment and prevent its recurrence; and the University will not negotiate a settlement with the employee or student for lesser actions that would not be reasonably calculated to end the sexual and gender-based harassment, assault and violence; eliminate the hostile environment; prevent its recurrence; and remedy the discriminatory effects on the complainant and others as appropriate.

**Reporting Requirements:**

- a. By October 31, 2015, the University will provide for OCR’s review 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 and gender-based harassment, assault, and violence). OCR will review these grievance procedures and related materials in order to ensure that these comply with Title IX and this Agreement.
- b. Within 45 calendar days of OCR’s confirmation that the revised policies and procedures, and any related materials used by the University, conform with Title IX and this Agreement, the Title IX Coordinator will certify to OCR that the University has formally adopted the revised documents; updated all printed publications and on-line publications with the revised documents (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. college catalog, website, student handbook) as well as a copy of any such publications 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 police, the Title IX Coordinator, OIE staff, students, employee union leaders and other appropriate University community members have access to the procedures and know where copies may be obtained.
- c. By June 30, 2016, and the same date in 2017 and 2018, the University will

submit to OCR copies of all grievances filed with the University during the 2015-2016, 2016-2017, and 2017-2018 academic years, respectively, that allege sexual or gender-based harassment, assault or violence. Pursuant to this requirement, the University will provide to OCR, for review and approval, documentation related to the investigation of each complaint; such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, documentation regarding interim measures provided or offered, any final disposition letters, hearing records, disciplinary records, documentation regarding any appeals, and documentation regarding additional steps taken to stop harassment found to have occurred, prevent its recurrence and remedy its effects on complainants and others as appropriate.

#### **D. Documenting Complaints**

By October 31, 2015, the University will develop and submit to OCR for its review a procedure to document each incident or complaint of discrimination on the basis of sex (including sexual or gender-based harassment, assault and sexual violence) received by the University, whether formal or informal, written or verbal, which will require, at a minimum:

- documentation describing the incident or complaint;
- a record of when and how the incident or complaint was brought to the attention of the University;
- documentation regarding any investigation conducted by the University, including: witnesses interviewed, documents reviewed, transcripts, recordings and other information considered, e.g., Advocate reports, University police reports, etc., related to the investigation;
- documentation of information reviewed by the adjudicator;
- documentation describing the University's disposition of the complaint, which includes the date of the disposition, the basis for the disposition and a description of any personal sanctions imposed, systemic remedies applied and/or University action taken;
- documentation of the dates that the University updated the parties regarding the status of the investigation;
- documentation that the University promptly provided the parties written copies of any decisions, including any appeals, regarding the complaint, even in cases where the University serves as the complainant for proceedings;
- documentation regarding any contacts with law enforcement regarding each incident or complaint, and any actions taken by law enforcement, if known to the University;
- documentation of any interim measures offered to the complainant pending the University's investigation; documentation of any interim measures used by the

complainant during the investigative process; and documentation that the complainant was provided with notice of the University resources available and that the University took steps to ensure that these were provided, (e.g., University police, Safe Place, no contact orders, academic support, counseling, etc.);

- any other relevant official University records related to the case;
- documentation of any remedies provided to individuals found to have been subjected to sex discrimination (including sexual and gender-based harassment, assault and violence); and
- where sexual or gender-based harassment, assault or violence is found to have occurred, documentation that the University followed up with the complainant(s) to ensure the harassment has not recurred, and that the discriminatory effects of the harassment have been remedied.

[FROM MSU: In coordination with the creation of the new Office of Institutional Equity, the Title IX intake and file documentation procedure has been overhauled by the new office and incorporates the OCR requirements.]

#### **Reporting Requirements:**

- a. By October 31, 2015, the University will submit the above-referenced procedure to OCR for its review and approval.
- b. Within 45 days of OCR's approval of the procedure, the University will adopt the procedure as part of its Title IX complaint processing procedures, distribute copies of the procedure, and provide training on the procedure to its Title IX Coordinator and its OIE staff.
- c. Within 90 days of OCR's approval of the procedure, the University will provide OCR with information or documentation confirming that the procedure has been distributed, the Title IX Coordinator and OIE staff have received training on the procedure, and the procedure is being used in the University's processing of Title IX complaints.

#### **E. Memorandum of Understanding (MOU)**

The University has secured and shared with OCR written MOU with the East Lansing Police Department and five other local law enforcement agencies that are likely to receive reports of sexual or gender-based harassment, assault or violence involving members of the University community. The University will revise the MOUs<sup>3</sup>, as necessary, to provide that members of the

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<sup>3</sup> The University will make its best efforts to obtain concurrence from outside law enforcement agencies to revise the existing MOU when necessary.

University community reporting an incident of sexual or gender-based harassment, assault or violence to the police will be notified that they may pursue a criminal action with the police 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 relevant evidence that could be determinative of outcomes in sexual or gender-based harassment, assault and sexual violence cases. The University will also revise the MOUs as necessary to clearly outline how the University and the police will coordinate in such cases, with clear policies on when the University will refer a matter to local law enforcement. The University affirms that it will periodically review the terms of the MOU and engage in open dialogue with the other law enforcement agencies to improve communication and coordination and address the protocols and procedures for referring allegations of sexual assault and sexual violence, sharing information, and conducting contemporaneous investigations. Additionally, by October 31, 2015, the University will develop a written protocol between the University police and the University's Title IX Coordinator that outlines how the parties will promptly notify each other when either receives a complaint of sexual or gender-based harassment, assault or violence, and to what extent they will coordinate efforts on behalf of the University to promptly and equitably respond; and how they will document those efforts, including all investigatory steps taken. The written protocol with the University police will specify that when the police department receives a complaint of sexual or gender-based assault or violence they will respond with a specialized investigator who is trained to investigate allegations of sexual or gender-based assault or violence; assign one investigator to gather all of the evidence and work with the complainant throughout the process; help the complainant obtain a personal protection order against the respondent if he or she wants one; and provide transportation to obtain the personal protection order and assistance with the paperwork if needed.

[From MSU: MOUs (Memorandums of Understanding) with the surrounding law enforcement agencies were signed in February and March 2015. Those MOU have been revised and signed as directed by OCR in August 2015.]

**Reporting Requirements:** By October 31, 2015, the University will provide OCR with a copy of its revised MOU with local police departments and the written protocol between the University Police and the University's Title IX Coordinator. By December 1, 2015, and the same date in 2016 and 2017, the University will submit to OCR documentation verifying that the MOUs are being followed.

#### **F. Individuals Receiving Complaints to Notify Complainants of Options and Coordination with Law Enforcement Agencies**

A complainant may currently report complaints of sexual or gender-based harassment, assault or violence at any time of day. During general business hours the Title IX Coordinator and/or designees are available to assist complainants, and at all other times University police are available. University Police are a 24 hour-a-day, seven days-a-week operation and officers are equipped to receive reports at any time. The University also asserts that information explaining the options available for pursuing a complaint and identifying support resources available on

and off-campus is provided to complainants during their intake meeting with the University.

By October 31, 2015, the University's policies and procedures will codify these existing practices and require that upon receipt of a sex discrimination complaint or report by the OIE Office the MSU Police Department or any REHS official, the receiving individual will provide the complainant a written notice describing the available options, including pursuing, or declining to pursue, a criminal complaint with a law enforcement agency, pursuing the University's investigation and disciplinary process, or pursuing both options at the same time; and the potential implications of pursuing both options (*i.e.*, possible temporary suspension of the fact-finding aspect of the University's investigation while the law enforcement agency is in the process of gathering evidence). The MSU Police Department and/or the OIE will document which option(s) the complainant wishes to pursue at that time, and inform the complainant that he or she may revisit that determination at any time. Reports to REHS officials shall be communicated to the OIE office, which will document which option the complainant wishes to pursue. The document will also contain a list of the resources and possible interim measures available for individuals who have been subjected to an incident of sexual or gender-based harassment assault or violence.

[From MSU: The MSU Police Department and Office of Institutional Equity already have been providing victims of relationship violence and sexual assault with written information about complaint options and campus/community resources. Starting in Fall 2015, Residence Education Housing Services also will provide written information regarding Office of Institutional Equity and law enforcement options, as well as campus/community resources, to victims of relationship violence and sexual assault.]

**Reporting Requirements:** By October 31, 2015, the University will provide a copy of the written notice developed consistent with Action Item F above; and will indicate where the University's procedures have been updated to codify the practice of providing such notice, as well as information regarding how the University intends to document and maintain documentation regarding what option(s) a complainant decides to pursue.

#### **G. Title IX Training for University Staff:**

- 1. Title IX Coordinator and Title IX investigators, University Police, Members of the Judicial Hearing Board, Members of the Appeals Board, Vice President of Student Affairs, Athletic Coaches and Staff, Residence Education and Housing Services Staff (including Resident Assistants), and Others**

Within 45 calendar days of OCR's approval of the Title IX policies and procedures revised under Action Item C above, the University will begin providing annual, mandatory Title IX training to its Title IX Coordinator, Title IX investigators, members of the ADP hearing board, members of the Student Appeals board, the Vice President of Student Affairs, Residence Education and Housing Services Staff, including resident assistants, University police, and any other relevant individuals involved in the process. The training, at a minimum, will cover: the University's revised policies and grievance procedures; the role and duties of the OIE office

and the Title IX Coordinator; how to recognize and appropriately address incidents and complaints under Title IX, including where and with whom to report such incidents; how to identify sex discrimination, sexual and gender-based harassment, assault and violence; the University's responsibilities under Title IX to address such allegations; confidentiality requirements; and information on the relevant resources available to victims. The training for Title IX Coordinators, Title IX investigators and the police will also include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including an emphasis on the complainant's right to pursue the University's process and the law enforcement process at the same time, as well as a reminder of the policy prohibiting retaliation and intimidation. It will also include instruction by a qualified individual regarding the impacts of trauma due to sexual and gender-based harassment, assault and violence, and on how to interview and interact with complainants in a way that is trauma-informed, sensitive and respectful. The training will include a definition of consent for sexual conduct used by the University. The training will also inform attendees what to do to respond to additional incidents of alleged sexual harassment and retaliatory harassment that the University receives notice of during an investigation. The University will invite members of the East Lansing Police Department and other law enforcement agencies within a 20-mile radius of the University to observe the portion of the training covering how to interview and interact with victims; however, OCR understands that the University has no authority to require these outside law enforcement agencies to attend the training. During the training, the University will provide copies of its revised nondiscrimination notice and Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess or on the University's website.

## **2. Other Faculty and Staff**

Within 45 calendar days of OCR's approval of the Title IX policies and procedures revised under Action Item C above, and bi-annually afterwards, the University will provide, in person or online, mandatory training to all University faculty and staff regarding recognizing and reporting incidents of sexual and gender-based harassment, assault and violence. This includes any staff in the University's graduate and professional programs, including but not limited to its medical and other professional schools. The training, at a minimum, will cover: the role and duties of the OIE office and the Title IX Coordinator; how to identify sex discrimination, sexual and gender-based harassment, assault and violence; the University's revised Title IX policies and grievance procedures; how to appropriately address incidents and complaints under Title IX, including where and to whom to report such incidents; the University's responsibilities under Title IX to address such allegations; the role and duties of the OIE office; relevant resources available to victims; and the issues of confidentiality and retaliation. During the training, the University will provide copies of its nondiscrimination notice and Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess or on the University's website. The University will provide each new employee with the above-referenced training within 30 days of his or her start date.

[From MSU: The university has been providing annual Title IX training to its investigators, police, student conduct panel members, student life administrators, athletic coaches and staff, REHS staff and other specific employee groups since the University changed its Title IX response procedures in 2011. Mandatory training for faculty members and staff was

implemented during the 2014-2015 academic year.]

**Reporting Requirements:** Within 45 calendar days of OCR’s approval of the Title IX policies and procedures revised under Action Item C above, the University will provide documentation to OCR demonstrating that training was provided by the University in accordance with Action Item G 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 description of each training; the type of audience; sign-in sheets for each session with the names and titles of those attending; and copies of any training materials distributed. The University will also provide documentation that it invited members of the East Lansing Police Department and other local police departments to the portion of the training that deals with interviewing and interacting with victims. By June 30, 2016, the University will provide documentation to OCR regarding any such training provided during the 2015-2016 academic year, including any training provided to new employees, and again by June 30, 2017, for the 2016-2017 academic year.

#### **H. Staffing/Resources**

By November 1, 2015, May 1, 2016, and November 1, 2016, the University will conduct an assessment to determine whether it has sufficient staff to investigate and address Title IX complaints in a timely manner. The University will add staff as needed, such as Title IX investigators, police officers, board members, adjudicators, appellate authorities, administrative staff, and others as needed to avoid delays in the investigative and appeals process.

By November 1, 2015, May 1, 2016, and November 1, 2016, the University will assess the staffing levels in its sexual assault counseling program and add appropriately trained staff as needed to ensure that specialized counseling services are readily available to individuals who need them.

[From MSU: The university made a significant commitment of resources in 2015 to improve staffing levels, including adding investigators in the Office of Institutional Equity office, development of the Special Victim’s Unit in the MSU Police Department, and adding two sexual assault counselor positions. The Counseling Center also has identified counselors with trauma training who will be available to provide additional assistance during times of high demand for services in the Sexual Assault Program. Adequacy of resources in all of the identified areas will continue to be a focus of assessment.]

**Reporting Requirements:** By November 1, 2015, May 1, 2016, and November 1, 2016, the University will provide documentation to OCR demonstrating its completion of the assessments referenced above. The University will also provide information to OCR regarding its staffing levels for each of the categories listed above; and a list of individuals who were hired in response to each assessment, including each person’s name, title, and the University office he or she works for.

#### **I. Student Information Sessions**

The University provides a mandatory online training (SAFE) on topics related to sexual and

gender-based harassment, assault and violence to its new freshman, transfer, and graduate students. The University also provides a mandatory workshop (SARV) on sexual assault and relationship violence to all first-year and transfer students.

By September 15, 2015, the University will make annual SAFE training mandatory for all undergraduate and graduate students. The SAFE training will be revised, as necessary, to include information regarding the role and duties of the OIE office and the Title IX Coordinator; the University's revised policies and procedures (once they have been approved by OCR); how to recognize incidents of sex discrimination (including sexual and gender-based harassment, assault and violence); the correlation between alcohol and other drug use and sexual assault; what does and does not constitute consent to sexual conduct; how and where to report incidents of sex discrimination, including sexual and gender-based harassment, assault and violence; the consequences for violating the University's policy against sex discrimination (including sexual and gender-based harassment, assault and violence); and resources available to students who have been subjected to sex discrimination (including sexual and gender-based harassment, assault and violence). The SAFE training will also address concerns specific to Lesbian, Gay, Bi-Sexual and Transgender (LGBT) students and international students. To ensure that students comply with this requirement, the University will develop consequences for not viewing the training, (e.g., students will be unable to register for classes until they have participated in the training.)

By November 30, 2015, the University will offer a series of in-person information sessions to students to make them aware of the University's prohibition against sex discrimination (including sexual and gender-based harassment, assault and violence); how to recognize such sex discrimination when it occurs; and how and with whom to report any incidents of sex discrimination (including sexual and gender-based harassment, assault and violence). This should include information regarding the role and duties of the OIE office and the Title IX Coordinator. In addition, the sessions will cover the University's revised grievance procedures for Title IX complaints (once approved by OCR), as well as a general overview of Title IX, the rights it confers on students, the resources available to students who believe that they have been victims of sexual or gender-based harassment, assault and violence, and the existence of OCR and its authority to enforce Title IX. The sessions will specifically address the connection between abuse of alcohol or other drug use and sexual and gender-based harassment, assault and violence, and what does and does not constitute consent to sexual conduct; and will inform students about the availability of resources, including University provided counseling, academic assistance, no-contact orders, etc., to individuals who have been victims of sex discrimination (including sexual and gender-based harassment, assault and violence). These sessions may be provided as part of the existing annual student orientation for new and returning students, and existing annual residence orientation for students residing in University housing.

[From MSU: Online training (SAFE) has been provided to all incoming undergraduate and transfer students since the 2011-2012 academic year. SAFE was expanded to all incoming graduate students for the 2014-2015 academic year. The SAFE training module has been updated for the current academic year to reflect recent requirements from the Violence against Women Act and guidance from OCR.]

**Reporting Requirements:** By December 15, 2015, the University will provide documentation to OCR demonstrating its compliance with Action Item I above, including a copy of the revised SAFE training; information or documentation demonstrating that annual SAFE training is mandatory for all students; and documentation regarding the consequences put in place for students who do not complete the training. The University will also provide documentation demonstrating that it held the information sessions referenced in Action Item I, including a list of dates and times when the sessions were held; the names, titles, and qualifications of the individuals who presented at the informational sessions; and copies of any materials that were used or distributed at each informational session.

#### **J. Student Athlete Training Materials**

By October 31, 2015, the University will review and revise, as necessary, any and all training materials used to train student athletes with respect to matters involving sexual and gender-based harassment, assault and violence (e.g., Branded a Spartan materials, MVP materials and other materials) to ensure that these provide a definition of consent for sexual conduct that is not inconsistent with the University’s policies and procedures; strongly encourage the reporting of incidents of sexual and gender-based harassment, assault and violence; encourage reporting of all incidents; and otherwise comply with the University’s revised Title IX policies and procedures.

[From MSU: The Title IX Coordinator is involved in annual training for the Athletic Department, including training for student-athletes and all coaching staff. That ongoing work includes a review of all externally provided training materials to assure those materials encourage reporting of all incidents of sexual assault and relationship violence and are not inconsistent with the university’s policies and procedures.]

**Reporting Requirement:** By October 31, 2015, the University will provide to OCR a copy of the revised training materials used to train student athletes with respect to matters involving sex discrimination, including sexual and gender-based harassment, assault and violence revised pursuant to Action Item J.

#### **K. Sexual Violence Advisory Committee**

By October 15, 2015, the University will create a committee (Sexual Violence Advisory Committee or “SVAC”) comprised of representatives from the undergraduate and graduate student bodies, faculty, staff and appropriate administrative offices. The University will invite a wide cross section of the University community so that the membership reflects a diverse and representative set of student and employee groups. The SVAC will meet at least twice a semester during the regular academic year to identify strategies for ensuring that students understand their rights under Title IX, and how to report possible violations of Title IX, including complaints of sexual and gender-based harassment, assault and violence. Additionally, the SVAC will identify strategies

for the prevention of sexual and gender-based harassment, assault and violence incidents, including outreach and educational activities, and will hold at least one public meeting each academic year to identify student concerns and to determine where and when harassment on the basis of sex has occurred, even if not reported to the University. Recommended strategies should also address the unique needs of LGBT and international students. SVAC's finalized recommendations will be made to the Title IX Coordinator annually, who will work with the University to review and implement the recommendations as appropriate.

[From MSU: This item is similar to a recommendation from the 2014-2015 Task Force on Sexual Assault and Relationship Violence and the formation of the committee is in process.]

**Reporting Requirements:** By December 30, 2015, the University will provide OCR with documentation that the SVAC has been formed in accordance with Action Item K, including a list of names and titles of the members of the committee; the dates of any meetings; copies of any meeting minutes; a copy of the committee's recommended actions; and a detailed description of any strategies the committee developed to prevent incidents of sexual and gender-based harassment, assault and violence, including any outreach or educational activities implemented. Documentation also should include a copy of any written recommendations, or a narrative summary of any verbal recommendations, received from the students during the public meeting referenced in Action Item K. By June 30, 2016, and June 30, 2017, the University will provide documentation to OCR regarding the 2015-2016 academic year, and the 2016-2017 academic year, respectively.

#### **L. Climate Checks**

By November 30, 2015, and again during the 2016-2017 and 2017-2018 academic years, the University will conduct (with the support and assistance of SVAC referenced in Action Item K above) periodic assessments of the University climate to assess the effectiveness of steps taken pursuant to this Agreement, or otherwise by the University, to provide for a campus free of sex discrimination and harassment, in particular sexual assaults and sexual violence. The purpose of the climate checks is to, at a minimum, assess students' and employees' knowledge about what constitutes sex discrimination (including sexual and gender-based harassment, assault and violence); to gather information regarding their personal or observed experiences with sex discrimination while attending or working at the University; to assess their view of the current climate at the University regarding these issues and any potentially problematic areas on campus (e.g., dormitories, athletic facilities); to assess their knowledge and understanding of the University's Title IX policies and procedures and to whom to report incidents of sex discrimination (including sexual and gender-based harassment, assault and violence); and to obtain their suggestions for steps the University could take to effectively address these issues. A climate check can be conducted in many ways, including but not limited to, a survey distributed in-person or online, or a poll conducted in-person or online. In addition, the campus may organize an open forum information session for students and employees; and designated,

publicized walk-in hours for campus community input. If the University opts to use a survey or poll, the University will submit the survey or poll to OCR for review and approval prior to its distribution. Any process used must be designed to include an assessment of the experiences of LGBT and international students, as well as students from the University's graduate and professional schools. The University will use information gathered during these climate checks to inform future proactive steps taken by the University to provide for a safe educational and employment environment and compliance with Title IX. The University will share information gathered and recommendations with the Title IX Coordinator.

[From MSU: MSU recently participated in the AAU sexual assault climate survey, the results of which will be released in September 2015. The Title IX Coordinator, in consultation with the advisory committee, will identify appropriate methods to conduct climate checks in future academic years to further assess the university's Title IX efforts and initiatives.]

**Reporting Requirements:** By December 30, 2015, the University will provide documentation to OCR demonstrating implementation of Action Item L, including a description of how, when, and by whom the climate check(s) were completed; copies of any 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 December 30, 2016, and December 30, 2017, the University will provide OCR with the same documentation regarding assessments conducted and any responsive actions taken during the 2016-2017 academic year, and the 2017-2018 academic year, respectively.

#### **M. Title IX Coordinator: Monitoring Program**

By December 30, 2015, the Title IX Coordinator will develop a monitoring program to assess the effectiveness of the University's overall anti-harassment efforts. In developing the monitoring program, the University will take into consideration the recommendations and suggestions made by the SVAC created pursuant to Action Item K and the information gathered during the 2015 climate check described in Action Item L. At a minimum, the Title IX Coordinator or a qualified designee will annually: review all formal and informal complaints of discrimination on the basis of sex (including sexual and gender-based harassment, assault and violence) received; review all information collected during the climate checks; consult with the SVAC; compile, evaluate, and analyze data collected, including a disaggregated assessment of whether the reported incidents of harassment have increased or decreased in number and severity and whether there are any particular locations, offices, or programs at the University where a sexually hostile climate might exist; and propose recommendations for improvement of the University's anti-harassment efforts and timelines for implementation of the recommendations.

[From MSU: The Title IX Coordinator will develop an appropriate monitoring program, taking into account the results of the AAU climate survey data, recommendations from the advisory committee, and the results of ongoing climate checks.]

**Reporting Requirements:** By December 30, 2015, the University will provide documentation to OCR of a proposed monitoring program. By June 30, 2016, and June 30, 2017, the University will provide documentation to OCR demonstrating that the Title IX Coordinator completed the annual reviews. This documentation will include information about the complaints received, the type of complaints (sexual discrimination, sexual harassment, sexual assault, etc.), any trends or patterns identified, a summary of information received from SVAC and during climate checks, and any actions taken in response to the trends or patterns identified.

#### **N. Sororities and Fraternities**

By December 30, 2015, the University will begin providing annual training to the membership of all sororities or fraternities that are registered student organizations. The University will mandate that maintaining status as a registered student organization is contingent on the organization's membership completing the training. The University will also offer the training to fraternities and sororities that are not registered student organizations and strongly encourage participation by their members. This training at a minimum will cover: what constitutes sex discrimination, including sexual and gender-based harassment, assault and violence; what does and does not constitute consent to sexual conduct; the correlation between alcohol and drug use and sexual and gender-based harassment, assault and violence; the impact of sexual and gender-based harassment, assault and violence on victims; the University's Title IX policies and procedures, including how and where to file a complaint of sexual or gender-based harassment, assault or violence; the consequences of engaging in sexual and gender-based harassment, assault and violence pursuant to the University policies and procedures; and information about bystander intervention.

[From MSU: Members of Greek organizations, especially the Greek leadership, have been active partners in promoting MSU's "No Excuse for Sexual Assault" campaign and other awareness campaigns regarding sexual assault and relationship violence. The Title IX Coordinator will work with campus partners to identify training specifically for the fraternities and sororities that hold registered student organization status.]

**Reporting Requirements:** By April 1, 2016, the University will provide documentation to OCR demonstrating that it has implemented Action Item N above, including the date(s) the training was provided; the qualifications of the individual(s) who provided the training, the materials used or distributed during the training; measures the University took to make the training mandatory; and a sign-in sheet for the individuals who attended the training, along with the name of his or her sorority or fraternity. The University will provide the same documentation to OCR regarding any such trainings held during the 2016-2017 academic year by June 30, 2017.

#### **O. Complaint Review**

By December 31, 2015, in accordance with its revised grievance procedures, the University will review the complaints and reports of sex discrimination (including sexual and gender-based harassment, assault and violence) involving a student perpetrator made from academic year 2010-2011 through 2014-2015, and all complaints involving an employee perpetrator made from academic year 2010-2011 through 2014-2015, plus any individual files OCR identifies, to determine whether the University investigated each complaint or report promptly and equitably, including but not limited to assessing whether:

- the investigation and any appeals were handled promptly;
- appropriate Title IX definitions and legal standards were applied, including but not limited to the preponderance of the evidence standard;
- appropriate interim relief was provided to protect the complainant from additional harassment or retaliation during the pendency of the investigation and to provide other support as needed, e.g., counseling and academic adjustments;
- both parties were given the right to provide evidence and identify witnesses;
- both parties were given written notice of the outcome (including any appeals);
- equal appeal rights were given to the complainant and the accused; and
- appropriate steps were taken to prevent the recurrence of sex discrimination (including sexual and gender-based harassment, assault and violence) against the complainant and other members of the University community, and to address any hostile environment created by the sex discrimination, including in cases where the complainant refused to cooperate but the University had sufficient information to investigate possible sex discrimination and prevent its reoccurrence.

The University will take appropriate action to address any problems it identifies regarding how these complaints were handled, including providing appropriate remedies that may still be available for the complainants in these cases, such as counseling or reimbursement for counseling; academic assistance or adjustments; tuition or housing reimbursements; or other appropriate relief. The University will also take steps to determine if any sexual or gender-based harassment may be ongoing as a result of the University's failure to properly address any of these complaints, and will take appropriate measures to address the sexual or gender-based harassment appropriately. The University is not expected to reinvestigate or rehear matters that have been processed through the University's student judicial system.

[From MSU: A review as described above is planned.]

**Reporting Requirements:**

- a. By January 15, 2016, the University will submit to OCR for review and approval the results of its review conducted pursuant to Action Item O,

specifically identifying any sex discrimination 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.

- b. Within 45 days of OCR's approval, the University will provide OCR with documentation that it has taken appropriate action to address any problems identified in its review.

#### **P. Individual Remedies for Students A and B**

By September 15, 2015, the University will make efforts to locate the current address or e-mail address for Student A and Student B; and offer, in writing, to have the Title IX Coordinator meet individually with Student A and Student B in person, via telephone, through correspondence, or through other means preferred by Student A and Student B regarding the University's handling of the investigation into their complaint allegations, if Student A and Student B are comfortable doing so. The letters to Student A and Student B will acknowledge the University's delay in processing their complaints, and will provide them with a written notice of the outcome regarding their complaints, including steps taken by the University and the results of any appeals. The letter will explain that the University is revising its Title IX policies and procedures to ensure that complaints of sex discrimination, including sexual and gender-based harassment, assault and violence are timely processed, that complainants are kept informed of the status of the investigation and any appeals, and that complainants found to have been sexually harassed are timely provided with remedies such as no contact orders, housing changes, academic assistance, and counseling to ensure their needs are addressed and to prevent further harassment. In addition, the letter will offer to provide Student A and Student B, at the University's expense, with counseling, academic support, reimbursement for classes, the ability to retake classes without penalty, and other remedies, as appropriate, to address any emotional, academic, or other issues they faced as a result of the University's delay in processing their complaint allegations.

[From MSU: The university already has reached out to Students A and B.]

**Reporting Requirements:** By September 15, 2015, the University will provide documentation to OCR demonstrating its implementation of Action Item P, including copies of the letters issued to each student. By October 31, 2015, the University will submit to OCR copies of any responses received to the letters issued pursuant to Action Item P, and documentation of any actions it took as a result.

#### **Q. Individual Remedies for Other Grievants**

1. Grievance File #1

In response to OCR's concerns regarding the University's handling of Grievance File #1, on July 24, 2015, the University issued a letter to Employee 1 who filed a report of sexual harassment. The correspondence explained that the University is revising its Title IX policies and procedures to ensure that complaints of sex

discrimination, sexual harassment and sexual assault are timely and appropriately processed, and that complainants found to have been sexually harassed are timely provided with remedies such as no contact orders, academic or employment assistance, and counseling to ensure their needs are addressed and to prevent further harassment. In addition, the letter invited the individual to contact the University's Title IX Coordinator to discuss any emotional, employment or other issues the individual faced as a result of the University's processing of the individual's complaint. The letter stated that part of the discussion would include whether the University could provide the individual, at the University's expense, with an appropriate remedy, such as counseling or reimbursement for counseling.

## 2. Grievance File #2

In response to OCR's concerns regarding the University's handling of Grievance File #2, in July 2015, the University attempted to locate the current mailing or e-mail addresses for individuals who reported sexual harassment from 2006 through the present by Employee 2. On July 24, 2015, the University issued letters to four of these individuals. The letter stated that the University is revising its Title IX policies and procedures to ensure that complaints of sex discrimination, sexual harassment and sexual assault are timely and appropriately processed, and that complainants found to have been sexually harassed are timely provided with remedies such as no contact orders, academic or employment assistance, and counseling to ensure their needs are addressed and to prevent further harassment. In addition, the letter invited each individual to contact the University's Title IX Coordinator to discuss any emotional issues, employment issues (and for those who had been students, academic issues) or other issues each individual faced as a result of the University's processing of their complaints. The letter stated that part of the discussion would include whether the University could provide the individual, at the University's expense, with an appropriate remedy, such as counseling or reimbursement for counseling, and for students, academic assistance (e.g., the ability to retake courses). The University is in the process of attempting to locate other individuals who reported sexual harassment by Employee 2.

**Reporting Requirements:** By August 30, 2015, the University will provide documentation to OCR demonstrating its implementation of Action Item Q above, including copies of the letters issued to each individual referenced in grievance files #1 and #2, other than those previously provided to OCR. By October 30, 2015, the University will submit to OCR copies of any responses it received to the letters issued pursuant to Action Item Q, and documentation of any actions it took as a result.

## R. Campus Safety

By September 15, 2015, the University will evaluate the University's River Trail area to determine if this area has adequate lighting and emergency phones. The University will install additional lighting and emergency phones as needed.

[From MSU: Although the subject of urban legend, the River Trail area does not have a higher incidence of sexual assault or other Title IX related criminal activity than any other area of campus. Nevertheless, the university is examining the adequacy of the lighting and emergency phones in this area.]

**Reporting Requirement:** By November 15, 2015, the University will provide information or documentation to OCR demonstrating that it has completed the steps referenced in Action Step R, including a list of the areas where lighting and/or emergency phones were installed, or an explanation as to why the University determined additional lighting and emergency phones were not required.

### **GENERAL REQUIREMENTS**

If OCR has any objections to the documents, recommendations or other items required to be submitted for review and approval by OCR under this Agreement, OCR will notify the University of its objections after receiving the draft documents.

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 regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this case.

The University 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 regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this case.

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 will give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.