



Erin Barker-Brown  
Office for Civil Rights  
Cleveland Office  
U.S. Department of Education  
1350 Euclid Avenue, Suite 325  
Cleveland, OH 44115

August 5, 2016

**Re: The Ohio State University Resolution Agreement  
Eighteenth Progress Report**

Dear Ms. Barker-Brown,

Pursuant to the Resolution Agreement entered into by the U.S. Department of Education's Office for Civil Rights (OCR) and The Ohio State University (Ohio State), Ohio State committed to report on progress towards meeting the various requirements outlined in the Agreement. This letter serves as our eighteenth such report.

**Section III: Title IX Policies, Procedures, and Related Written Materials (Agreement pp. 4-9)**

This section requires Ohio State to review and revise policies and procedures relevant to allegations of sex discrimination.

**Item III.B (Agreement pp. 5-7)**

Requirement: Item III.B of the Resolution Agreement required the university to conduct a comprehensive review of all its policies, procedures, guidelines, and other related document that address sexual harassment, including sexual violence, and submit for OCR review and approval revised sexual harassment policies and procedures and other related documents for complaints and reports of harassment involving students, faculty, staff, and third parties.

OCR's May 11, 2016 letter states it approved the requested extension of August 5, 2016 to submit the revised Code of Student Conduct.

Response: The Code of Student Conduct was revised consistent with the Sexual Misconduct policy that was provisionally approved (pending the update of the Code and other documents and publications) by OCR in its September 29, 2015 letter. The revised Code was approved by the Board of Trustees on April 8, 2016 and may be accessed at <http://trustees.osu.edu/assets/files/RuleBook/CodeStudentConduct.pdf>. In the revised Code, Student Conduct will continue to refer complainants and respondents in its investigations to the revised Sexual Misconduct policy 1.15, which enumerates the rights and options of all community members in investigations of sexual harassment and discrimination.

**Item III.C (Agreement pp. 7-8)**

Requirement: Item III.C of the Resolution Agreement requires the university to certify to OCR that, within 60 calendar days of receipt of OCR's approval, it has formally adopted the revised documents; updated all

printed publications and online publications with the revised documents; and electronically disseminated the revised grievance procedures to students and employees.

OCR's May 11, 2016 letter noted that until the Sexual Misconduct policy is formally adopted as final, the university is not in full compliance with this item of the Resolution Agreement. The letter states that the university should certify to OCR that we have formally adopted the revised documents, updated all printed publications and online publications with the revised documents, and electronically disseminated the revised grievance procedures to students and employees by August 5, 2016. The documentation is to 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, as well as a copy of any such publications.

Response:

Policy 1.15

On September 1, 2015, the university implemented an interim revised Sexual Misconduct, Sexual Harassment, and Relationship Violence policy 1.15. Shortly after OCR's provisional approval detailed in its September 29, 2015 letter, the university began taking the policy from interim to final status. As part of the university policy process, the policy was disseminated for feedback from stakeholders. Feedback from the community was limited in scope, as we noted in the feedback request that the substantive language of the policy was approved by OCR and was not eligible for revision. However, the community was invited to submit suggestions for revisions related to readability and clarification of language, so that the final policy would reflect the needs of the Ohio State community most effectively.

The revised policy was approved by President's Cabinet on August 1, 2016 and will have an effective date of August 23, 2016 (the first day of autumn semester). We realize that this results in a slight deviation from the deadline of August 5, but coordinating the communication of the revised policy with the start of the semester will have a much broader and more effective impact on the university community, which we believe fits within the spirit of the Resolution Agreement. The final approved policy is enclosed with this status report.

The university is currently engaged in several channels of communication to our university community reflecting the adoption of the final revised policy. These channels of communication, typical to the university policy process, include the following:

- The policy will be available beginning August 23, 2016 on the university policy website at <http://policies.osu.edu/> on the landing page under "New and recently revised policies," navigable under each of the four "Find policies by" options, and searchable.
- The policy and related documents will also be available beginning August 23, 2016 on the Human Resources policy website at <http://hr.osu.edu/policies-forms>, the Title IX website at <http://titleix.osu.edu/sidebar-resources/osu-policies/sexual-harassment-policy.html>, and the website for BuckeyesACT, Ohio State's comprehensive effort to combat sexual misconduct on campus.
- The policy will also be communicated to university and Wexner Medical Center governance groups and Human Resource Professionals in each of the units from the Office of Human Resources prior to the effective date of the final revised policy, similarly to how the interim policy was communicated last fall. These groups will be provided additional policy resources to assist in their individual unit communications with audiences.
- Additionally, the policy will appear with an announcement in OnCampus today (faculty and staff email), Wexner Medical Center This Week (Wexner Medical Center employee e-newsletter) and onCampus Weekly (all student e-newsletter) both prior to its implementation and at or shortly after the effective date.

Ohio State will provide evidence of these communications, which are currently in process, in our next status report due October 15, 2016.

Other print and online publications

Upon the implementation of the interim revised Sexual Misconduct Policy on September 1, 2015, the university updated information related to the policy on the Human Resources, Title IX, Student Conduct, and Sexual Civility and Empowerment (SCE) websites and updated policy-related documents such as the FAQ. Due to the minor, non-substantive changes to policy 1.15 that were adopted as final by the university on August 1, 2016, none of these print or online publications require any additional updates. A list of the titles of these print and online publications as well as links and/or copies of materials are included as an attachment to this report.

We believe that this response constitutes full compliance with all requirements of Items III.B (including III.B.1) and III.C of the Resolution Agreement.

**Item IV.A: Training (Agreement p. 9)**

Requirement: Item IV.A of the Resolution Agreement requires the university to provide periodic, comprehensive training to university officials and administrators who will be directly involved in processing, investigating, and/or resolving complaints of sex discrimination (including sexual harassment and sexual assault) or who will otherwise play a role in coordinating the university's compliance with Title IX.

OCR's May 11, 2016 letter states that OCR reviewed the training materials and found that they included all of the required elements under Item IV.A, except for information about available resources for complainants and respondents. The letter continues that to fully comply with these requirements, the university should either submit evidence to OCR that this information was covered during the August 17 and 18, 2015 training, or issue a supplemental document to the training participants that includes information about available resources for complainants and respondents and submit a copy of the document to OCR along with verification that the document was provided to training participants.

Response: In the university's February 5, 2016 progress report, we provided a copy of the agenda and training materials. The agenda included a discussion of "remedies and interim measures," at which time we discussed the various campus and community resources available for complainants and respondents at Ohio State. Copies of the resources provided to the training participants are included as an attachment to this report.

We believe this response constitutes full compliance with all requirements in Item IV.A of the Resolution Agreement.

**Item V.D: Campus Focus Group (Agreement p. 12)**

Requirement: The fourth reporting requirement of Section V requires Ohio State to provide documentation to OCR demonstrating its implementation of item V.D regarding a campus focus group, including any resulting summaries of the information obtained and any proposed and/or completed actions based on that information.

OCR's May 11, 2016 letter states that while the information the university provided in its October 15, 2015 status report confirms that we have established and solicited input from a campus focus group, OCR did not find any resulting summaries of the information obtained and any proposed and/or completed actions

based on that information as required by this item. The letter states that to demonstrate full compliance, the university should submit supporting documentation by August 5, 2016.

Response: In the university's September 15, 2015 and June 10, 2016 progress reports, we detailed the continued work of the university's multidisciplinary task force called BuckeyesACT, which was formed to combine the efforts of the university's various projects and workgroups on sexual violence awareness, prevention, and response. The BuckeyesACT Task Force is chaired by the Vice President for Student Life, Dr. Javaune Adams-Gaston, and includes an array of representatives from all levels of the institution, from Executive Vice Presidents to faculty to undergraduate and graduate students. The membership is engaged in both reviewing and implementing the university's annual climate survey and providing input regarding processes and strategies for communicating to the university community regarding Title IX. Copies of the agenda and related documents from the regular meetings of the BuckeyesACT Task Force (formerly the Resolution Agreement Implementation Team) were provided with the prior progress reports.

Furthermore, in the university's July 15, 2016 progress report, we provided a detailed summary of the work of the BuckeyesACT Task Force in the 2015-16 academic year, corresponding with the acronym for ACT: "Action, Counseling, and Training." Along these themes, BuckeyesACT successfully created new positions for Title IX investigators and a Deputy Title IX Coordinator in the Office of Student Conduct, staff to assist with the prevention and education of our students on sexual and relationship violence in the Sexual Civility and Empowerment Program, and a confidential sexual violence trauma-focused counselor in Counseling and Consultation Service, among many other significant accomplishments. The university established a website for the BuckeyesACT Task Force, [www.osu.edu/buckeyesact](http://www.osu.edu/buckeyesact), to publicly chronicle the work of the group and we invite OCR to review the information available on that site as additional documentation of the university's accomplishments.

Since the July 15, 2016 progress report, the BuckeyesACT Task Force met to begin work on projects for the 2016-17 academic year, including the provision of a mandatory instructor-led training session on consent to compliment the mandatory online training module completed by all incoming students in 2016. As of July 27, 2016, the completion rate for the online module was 85.4% (or over 5,800 students), which we feel is a huge success for such a large-scale program. The Task Force also reviewed and approved a new university-wide consent awareness campaign called Buck-i-CARE, which will be communicated to the university community in early Fall semester. The campaign will grow to incorporate information learned from the 2016 climate survey data, as the analysis progresses, and communication of these messages will continue throughout the 2016-17 academic year. A copy of the agenda from the most recent BuckeyesACT meeting is attached to this report.

If the university can provide any further documentation on a specific BuckeyesACT project or plan, we are happy to do so. We believe this constitutes full compliance with the fourth reporting requirement of Section V (Item V.D) of the Resolution Agreement.

#### **Section VI: Student-Focused Remedies (Agreement p. 13)**

Requirement: This section of the Resolution Agreement requires Ohio State to review all reports and complaints of sexual harassment/violence made during and since academic year 2011-2012 to determine whether the university investigated and resolved each complaint or report promptly and equitably under Title IX.

OCR's May 11, 2016 letter states that the university should provide OCR with an update as to the implementation of the identified "process improvements" (i.e., new case management system to assist in fully documenting investigations conducted by Human Resources and Medical Center Human Resources, additional training for all investigators in "all aspects of Title IX investigations," and hiring specialized

Title IX investigators). The OCR letter additionally requests the university submit additional information regarding the evidentiary standard used by Student Conduct in its Title IX investigations and information concerning whether Student Conduct reviewed the evidence in each relevant case file under a preponderance of the evidence standard. Both are due to OCR by August 5, 2016.

Response: The university launched its case management system for Human Resources and Medical Center Human Resources in April 2015. The system has been fully implemented and is used to track and manage sexual harassment/violence cases, among other matters. Additionally, as previously reported to OCR in our February 5, 2016 status report, the university's Title IX investigators received additional Title IX training during the investigator training held August 17-18, 2015. Additionally, the university provided a more general training focused on investigation practices and report writing to investigators in the Office of University Compliance and Integrity, Human Resources, Wexner Medical Center, and Student Life on November 12-13, 2015. Two specialized Title IX investigators began in Student Conduct on June 1, 2016, in addition to an associate director and deputy Title IX coordinator, who began May 16, 2016, also in Student Conduct.

As originally noted in our February 27, 2015 status report to OCR, and restated in our addendum to the case review provided via email to OCR on September 15, 2015, the evidentiary standard used to resolve complaints of sexual harassment/violence in Student Conduct is a preponderance of the evidence. The application of the preponderance standard is enumerated in section 3335-23-10 (F) of the Code of Student Conduct. This preponderance standard for all types of misconduct under the Code went into effect December 7, 2007 (<http://trustees.osu.edu/assets/files/minutes/Archive%20minutes/2006-2008.pdf> – see Resolution No. 2008-59, page 1751 of that pdf).

We believe this constitutes full compliance with Item VI of the Resolution Agreement.

Ohio State will continue to demonstrate its long-standing commitment to vigorously addressing sexual assault and sexual harassment on its campuses, including by taking effective steps to stop sexual misconduct, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects. We will continue to meet our requirements under the Resolution Agreement, and report progress to you.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Kellie Brennan  
Compliance Director and Title IX/Clery Coordinator

Enclosures:

- Sexual Misconduct policy
- List and copies of revised print and online publications
- Resources for ATIXA training participants
- BuckeyesACT meeting agenda

cc: President Michael V. Drake, M.D.

Christopher Culley, Senior Vice President, General Counsel and Senior Advisor to the President  
Gates Garrity-Rokous, Vice President and Chief Compliance Officer