

## **RESOLUTION AGREEMENT**

### **Wesley College Complaint No. 03-15-2329**

In order to resolve the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (“OCR”), under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its implementing regulations at 34 C.F.R. Part 106 (“Title IX”), Wesley College (the “College”) agrees to take the steps set forth below. This Resolution Agreement has been entered into voluntarily by the College and does not constitute an admission by the College. OCR recognizes that the College has cooperated with OCR during the course of its investigation.

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 College, or someone who has made a report of sex discrimination to the College.

#### **A. SEXUAL MISCONDUCT/TITLE IX GRIEVANCE PROCEDURES**

The College will revise its policies and procedures that address complaints of sex discrimination (including sexual harassment, sexual assault, and sexual violence), including but not limited to the Title IX Policy, Title IX information page, and Student Code of Conduct. Some of the provisions below are already included in one or more of the College’s policy and procedure documents; with regard to such provisions, the College will retain them in the revised procedures, and will revise all related policies and procedures and other materials to ensure compliance with Title IX. The College will ensure that notice is provided to students and employees of the existence of the revised policies and procedures, and that these are widely distributed.

Specifically, the College will address the following items to ensure its policies and procedures are in compliance with Title IX:

1. Notice that the procedures apply to complaints alleging all forms of sexual misconduct (including sex discrimination and/or sexual harassment/violence) filed against employees, students, or third parties;
2. An explanation of how to file a complaint of sexual misconduct (which includes sex discrimination and/or sexual harassment/violence) pursuant to the policy and procedures;
3. The name or title, office address, electronic mail (email) address, and telephone number of the individual with whom to file a complaint;
4. Definitions and examples of what types of actions may constitute sexual misconduct (including sex discrimination and/or sexual harassment/violence);

5. Definitions and identification of employees who are: a) responsible employees (i.e., mandatory reporters); b) confidential employees; or c) employees who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers, including front desk staff, and students and other staff with similar functions (who should report incidents of sexual violence in a way that does not identify students without their consent);
6. A requirement that responsible employees promptly report sexual misconduct that they observe or learn about;
7. Provisions providing for an adequate, reliable and impartial investigation of all complaints prior to a hearing, which will include interviews with the victim and the accused, and any relevant witnesses, and a review of any other relevant evidence;
8. Provisions providing for the adequate, reliable, and impartial investigation of all complaints, including an equal opportunity for the parties to present witnesses and other evidence and equal access to information being considered in the grievance process (consistent with FERPA);
9. An explicit statement that the College will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus;
10. The College's obligation to make reasonable efforts to investigate and address instances of sexual misconduct when it knows or should have known about such instances, even when a complainant chooses not to participate in an investigation, and to respond to complaints, reports, or information about incidents of sexual misconduct to stop prohibited sexual misconduct, eliminate any hostile environment, take steps to prevent the recurrence of sexual misconduct and address any effects on campus from such conduct;
11. A description of "mediation," "resolution without a hearing," and "formal hearing," as well as an explanation that mediation is not available when the allegations include sexual violence;
12. A description of the appropriate use of informal resolutions, if any, including: when informal resolution may be inappropriate (e.g., mediation is prohibited in cases of sexual assault and those involving a student complaining of sexual harassment against an employee in a position of authority over the student); that the parties must be notified of the available informal options, and that they are voluntary; and the right to end the informal process at any time and begin the formal complaint process;

13. Provisions prohibiting parties from personally cross-examining each other during the hearing processes;
14. A statement that the preponderance of the evidence standard will be used for investigating and making findings relating to allegations of sexual misconduct;
15. A provision excluding the participation of students on hearing panels or, to the extent that students are ever permitted to participate as hearing panel members, a description of how their training will adequately address concerns related to this practice;
16. Designated and reasonably prompt timeframes for the major stages of the sexual misconduct grievance process that apply equally to the parties of the complaint, including the fact gathering, complaint resolution, and appeal processes, if any;
17. A description of the rights of complainants and available resources and reporting options, including confidential resources, support resources, such as counseling, disciplinary options, and the option to file or decline to file a complaint with a local law enforcement agency;
18. A description of the rights of students, including the accused, and available resources, including complete information about the hearing process and confidential counseling and support services;
19. Notice of the availability of interim measures (such as counseling, housing assistance, academic adjustment or other academic assistance, and stay away orders), including how they can be obtained, to protect and support the complainant during the College's investigation period, to provide for the safety of the complainant(s) and the campus community and the avoidance of retaliation;
20. A provision noting that requests for interim measures may be made by or on behalf of the complainant to any College official responsible for Title IX compliance, who will be responsible for ensuring the implementation of appropriate interim steps and coordinating the College's response to these requests with the appropriate offices on campus;
21. A statement that interim measures will not disproportionately impact the complainant, and that interim measures are available even if the complainant does not file or continue to pursue a complaint of sexual misconduct;
22. A provision indicating that the College will comply with law enforcement requests for cooperation, that such cooperation may require the College to temporarily suspend for a short period the fact-finding aspect of a sexual misconduct/Title IX investigation while the law enforcement agency is in

the process of gathering evidence, and that the College will promptly resume its sexual misconduct/Title IX investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process;

23. An explanation of the College's confidentiality policy, which includes an assurance that the College will keep the complaint and investigation private to the extent possible, explains what type of information will be shared with the accused if a complaint is filed, and states that the College's obligations under Title IX do not end because a victim has requested to not proceed with a Title IX investigation;
24. Revisions to the College's procedures to clarify that, while discretion remains important, parties are not restricted from discussing and sharing information related to their complaints with others that may support or assist them in presenting their case;
25. Concurrent written notification to both parties of the outcome of the College's investigation and any appeal;
26. A provision requiring that, if requested by the complainant, the College will promptly implement a one-way no contact order (with the burden of no contact on the accused) if the College has made a finding of responsibility under the sexual misconduct policy, even if an appeal may be filed, or has been filed and is pending;
27. Notice of the opportunity for both parties to file an appeal, to the extent 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;
28. An assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker trained in issues of sexual misconduct/Title IX;
29. Examples of the range of possible disciplinary sanctions and the types of remedies available to the complainant and others;
30. An explanation that the rights of students, including the accused and the risk of threat to the school community will be taken into consideration, along with ensuring the sufficient level of inquiry, in determining the appropriateness of interim suspensions;
31. An explanation of how disciplinary actions, if any, relating to a sexual misconduct complaint (e.g., underage drinking before a sexual assault) will be handled in the complaint procedure;

32. A statement that the complainant's past sexual history will typically not be used in determining whether sexual misconduct occurred; except where consent is at issue, prior consensual activity between the two parties, while not determinative, may be relevant to determining whether consent was sought and given, recognizing that consent to one sexual act does not constitute consent for another sexual act; in addition, the past sexual history may be relevant under limited circumstances, for example, to explain injury;
33. A statement that medical and counseling records are privileged and confidential documents that students will not be required to disclose; and
34. A statement that retaliation is prohibited against any individual who files a complaint of sexual misconduct/Title IX, participates in a complaint investigation in any way, or opposes in a reasonable manner an act or policy believed to constitute sex discrimination.

### **Reporting Requirements:**

By January 1, 2017, the College will provide for OCR's review and approval a draft of the revised procedures and any additional policies or informational documents that address complaints alleging discrimination on the basis of sex (including sexual harassment, sexual assault, and sexual violence). OCR will review these grievance procedures and related materials in order to ensure that they comply with Title IX and this Agreement.

Within 45 calendar days of written notification from OCR of its approval of the revised sexual misconduct/Title IX grievance procedures, the College will provide written confirmation to OCR that the revised procedures were adopted and implemented and that faculty, staff, and students were provided with written notice regarding the grievance procedures for resolving sexual misconduct/Title IX complaints, together with information on how to obtain a copy of the grievance procedures. The College will confirm to OCR that it has, at a minimum, made this notification through: the College's website; electronic mail messages to faculty, staff, and students; as well as by any other additional means of notification the College has deemed effective to ensure that the information is widely disseminated. The College will provide to OCR copies of, or a link to, its revised student handbooks and any other publications that contain the procedures, as well as a link to its webpage where the revised sexual misconduct/Title IX procedures are otherwise located.

## **B. NONDISCRIMINATION STATEMENT**

The College will revise its notice of non-discrimination (the "Notice") to state that the College does not discriminate on the basis of sex in its programs, activities, or employment. The Notice will include the name, title, office address, telephone number, and electronic mail (email) address of the College's designated Title IX Coordinator(s). The Notice will include a statement

that inquiries regarding the application of Title IX and its implementing regulations may be referred to the Title IX Coordinator(s) or to OCR.

The College will broadly publish its revised Notice, including on the College's website and in its promotional materials, student and employee handbooks, application forms and its other published materials in accordance with 34 C.F.R. § 106.8(a). Inserts may be used pending reprinting of the publications.

**Reporting Requirement:**

By January 1, 2017, the College will provide for OCR review and approval, a copy of its amended notice of nondiscrimination.

Within 45 days of OCR's approval of the Notice, the College will provide to OCR a list of the titles of the publications in which the its notice of nondiscrimination appears (e.g., College catalog, website, student handbook); and a copy of at least one publication disseminated to the campus community, or printouts, or a link to an online publication containing the Notice.

**C. POLICY REVIEW**

The College will review and revise, the Student Code of Conduct, to ensure that it is consistent with Title IX. Specifically, the College will clearly define each employee category, and will remove any inappropriate burden placed on students to assess each College staff and faculty member's duties and ability to maintain their privacy prior to talking to them, and ensure that incidents reported to non-confidential employees are reported to the Title IX Coordinator.

**Reporting Requirement:**

By March 31, 2017, the College will submit to OCR its assessment regarding the Student Code of Conduct's consistency with Title IX, and any proposed revisions. Within sixty (60) days after OCR's approval of the revised Student Code of Conduct, the College will provide OCR with documentation confirming that the College has publicized and disseminated its revised Student Code of Conduct, as well as a description of how it was distributed, a copy of its revised student handbook(s), and a link to its webpage where the revised Student Code of Conduct is located.

**D. TITLE IX COORDINATOR**

The College will review and revise the current responsibilities of its Title IX Coordinator and Deputy Coordinators (collectively, "Title IX Coordinators") to ensure that their responsibilities are consistent with Title IX. Based on the Title IX Coordinators' responsibilities, the College will develop a description of corresponding mandatory training requirements for its Title IX Coordinators. The responsibilities and training requirements will include the following:

1. The Title IX Coordinators will have expert knowledge of the College's Title IX grievance procedure(s) and oversee all Title IX reports received by the Title IX Coordinators and all other departments, offices, and

individuals identified as responsible employees or delegated the responsibility for receiving and/or investigating reports of sex discrimination, including sexual harassment and sexual violence, and will address any patterns or systematic problems that arise during the review of such reports and assess overall efficacy of coordination and overall response by the College to sexual harassment and sexual violence, including the implementation and efficacy of interim measures, steps taken to stop sex discrimination/harassment found to have occurred and prevent its recurrence, eliminate any hostile environment that has been created for students, and steps taken to remedy any discriminatory effects on the complainant and others, as appropriate.

2. The Title IX Coordinator will retain ultimate oversight responsibility for any Deputy Coordinators the College designates to assist the Title IX Coordinator. The College also will develop specific statements of roles and responsibilities for each Deputy Coordinator that clearly delineate the scope of each Deputy Coordinator's duties and their subordinate roles to the Title IX Coordinator.
3. The Title IX Coordinators will have ultimate responsibility for: the prompt investigation of reports alleging sexual harassment and sexual violence; adjudication of whether sexual harassment or sexual violence has occurred in individual cases; the identification of remedies (including interim measures) necessary to address sexual harassment or sexual violence, eliminate any hostile environment, and prevent its recurrence; and consultation, as necessary, on any matter where it has been determined that sexual harassment or sexual violence has occurred to ensure the College's compliance with Title IX. To the extent that any of these duties will be delegated to other individuals at the College, the statement will clearly state what will be delegated to whom and how the Title IX Coordinators will retain oversight of any delegated responsibilities.
4. The Title IX Coordinators will oversee the provision of initial and ongoing training to any Deputy Coordinators and any other individuals from any College department or office delegated the responsibility for receiving and/or investigating reports of sex discrimination, including sexual harassment and sexual violence. The Title IX Coordinator will also have sufficient experience or training in these same concepts. The training content will include the substantive requirements of Title IX and how to investigate reports under Title IX that allege sex discrimination, including sexual harassment and sexual violence.
5. The Title IX Coordinators will have responsibility for the development, coordination, and implementation of regular events hosted by or supported by the College leadership on grounds to raise awareness in the College community about all forms of sex discrimination (including sexual harassment and sexual violence) and the College's policies and procedures

regarding such matters, so as to reinforce to the College community the importance of this issue to the College administration.

6. The Title IX Coordinators will be responsible for providing information to students and employees regarding their Title IX rights and responsibilities, including information about the resources available on and off College property, the formal and informal resolution processes, the availability of interim measures, and the ability to file a complaint with local law enforcement and the College simultaneously.
7. The Title IX Coordinators will be responsible for the development, coordination, and implementation of periodic Title IX training for the College community (i.e., staff, faculty, resident assistants, coaches, students, etc.).
8. The Title IX Coordinators will be responsible for periodic review and assessment of the College's Title IX procedures, and any related policies and procedures, to ensure that they are consolidated to the maximum extent possible to provide an efficient resource for students, faculty, and staff.
9. Neither the Title IX Coordinator nor any Deputy Coordinators shall have other job responsibilities that create a conflict of interest with regard to their duties and responsibilities under Title IX. This includes serving in any capacity during the appeals process, if the Title IX Coordinator or any Deputy Coordinator participates in the administrative or board hearing, even in a non-voting capacity.
10. The Title IX Coordinators will be responsible for coordinating communications with the Dover Police Department regarding the College's obligations under Title IX and for serving as a resource on Title IX issues.
11. The Title IX Coordinators will be responsible for coordinating the development and implementation of periodic assessments (i.e. surveys) of campus climate with regard to sexual harassment and sexual violence.
12. The Title IX Coordinators will coordinate with appropriate administrators, student services personnel, and law enforcement officers to identify and address any patterns or systemic problems under Title IX and to assess the overall efficacy of the coordination among these various offices.
13. The Title IX Coordinators will annually review all reports of discrimination on the basis of sex, including sexual harassment and sexual violence, in order to identify and address any patterns or systemic problems (such as how many reports involved particular groups of students (e.g., first-year students, athletes, graduate students, members of student organizations); whether any individuals or organizations engaged



in repeated misconduct; whether there are any patterns of barriers to reporting for any group of students; and/or if reports were not processed promptly and equitably in compliance with the applicable policies and procedures).

**Reporting Requirement:**

By September 1, 2017, the College will provide for OCR review and approval, a copy of the Title IX Coordinators' responsibilities and corresponding training requirements,

Within 60 days of OCR's approval, the College will revise the Title IX Coordinators' responsibilities and corresponding training requirements.

Within 45 days of revising the Title IX Coordinators' responsibilities and corresponding training requirements, the College shall provide OCR with the revised Title IX Coordinators' responsibilities and corresponding training requirements, and documentation substantiating that the College implemented and distributed the revised Title IX Coordinators' responsibilities and corresponding training requirements to the College's Title IX Coordinators.

**E. SEXUAL MISCONDUCT/TITLE IX TRAINING**

**1. Training for Employees Responsible for Recognizing and Reporting Sexual Misconduct**

The College will provide training to all staff responsible for recognizing and reporting incidents of sexual harassment (including but not limited to resident advisors (RAs), campus police, faculty, administrators, counselors, general counsels, athletic coaches, health personnel, and any other responsible employees, to the extent they are not confidential resources under policy or applicable law).

The training will cover, at a minimum: (1) the revised grievance procedures; (2) the obligation of staff to report sexual misconduct including what should be included in a report, any consequences for the failure to report, and the procedure outlining their responsibility to students' requests for confidentiality; (3) how to report sexual misconduct pursuant to Title IX and the revised grievance procedures; (4) the person(s) to whom sexual misconduct must be reported; (5) how to recognize and identify sexual misconduct and the behaviors that may lead to and result in sexual misconduct; (6) the College's responsibilities under Title IX to address such allegations; (7) and the relevant resources available. The training should also include information on the reporting obligations of College staff; the complainant's option to request that their identifying information not be shared with the respondent or that no action be taken; the existence of available confidential advocacy, counseling, or other support services; and the right to file a sexual harassment complaint with the College and to report a crime to campus or local law enforcement; the attitudes of bystanders that may allow conduct to continue; the potential for victimization of students who may have experienced sexual misconduct and its effects on students; appropriate methods for responding to a student who may have experienced sexual misconduct; and the impact of trauma on students who experience sexual misconduct.

During the training, the College will provide copies of the revised sexual misconduct/Title IX grievance procedures to all attendees or refer them to their location within the publications they already possess.

**Reporting Requirement:**

By September 30, 2017, and by the same date in 2018 and 2019, the College will provide documentation to OCR demonstrating that the College has provided the training referenced in Section E(1) above. The documentation will include, at a minimum, the date(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any materials used or distributed during the training; and a sign-in sheet with the names and titles of the individuals who attended the training.

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

The College will provide its Title IX Coordinators and any other College officials/students directly involved in receiving, processing, investigating, adjudicating, and/or resolving complaints of sexual misconduct with training on the College's sexual misconduct/Title IX grievance procedures; the College's obligations regarding the investigation of complaints; guidance from OCR; and Title IX's prohibitions on retaliation. The training will also include instruction on how to conduct and document adequate, reliable, and impartial sexual misconduct/Title IX investigations for those charged with investigative duties, including information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review of allegations of sexual misconduct (preponderance of the evidence); information about coordination and communication between the College and the local external law enforcement; information on consent and the role drugs and alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual misconduct; the need for remedial actions for the respondent, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; how to conduct sexual misconduct; confidentiality; the College's responsibilities under Title IX even in instances where the victim declines to proceed with an investigation; information related to the employee categories and the mandatory reporting requirements of all employees not designated as confidential employees; the effects of trauma; and cultural awareness training regarding how sexual misconduct may impact students differently depending on their backgrounds.

**Reporting Requirement:**

By August 31, 2017, and by the same date in 2018 and 2019, the College will provide documentation to OCR demonstrating that it has provided the training referenced in Section E (2) above. The documentation will include, at a minimum, the date(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any materials used or distributed during the training; and a sign-in sheet with the names and titles of the individuals who attended the training.

### **3. Training for Board Hearing Panel Members**

All Board Hearing panel members appointed by the College must receive training before they can participate in the review of a case. The College will develop and provide training to all Board Hearing panel members. This training will be conducted annually during the monitoring period, and will address the College's sexual misconduct/Title IX grievance procedures, guidance from OCR, and Title IX's prohibitions on retaliation. The training will also include information on working with and interviewing persons subjected to sexual violence; information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence; the proper standard of review of allegations of sexual misconduct (preponderance of the evidence); information on consent and the role drugs and alcohol can play in the ability to consent; the importance of accountability for individuals found to have committed sexual misconduct; the need for remedial actions for the respondent, complainant, and school community; how to determine credibility; how to evaluate evidence and weigh it in an impartial manner; confidentiality; the effects of trauma; and cultural awareness training regarding how sexual misconduct may impact students differently depending on their backgrounds. The training will also address the appropriate standard of review to employ when reviewing cases of sexual misconduct (the preponderance of the evidence standard).

#### **Reporting Requirement:**

By August 31, 2017, and by the same date in 2018 and 2019, the College will provide documentation to OCR demonstrating that it has provided the training referenced in Section E(3) above. The documentation will include, at a minimum, the date(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any materials used or distributed during the training; and a sign-in sheet with the names and titles of the individuals who attended the training.

### **4. Training for Students**

The College will provide training to all students, including graduate students, on the College's sexual misconduct/Title IX grievance procedures, the College's obligations regarding the investigation of complaints, including the College's responsibilities under Title IX even in instances where the victim declines to proceed with an investigation, guidance from OCR, and Title IX's prohibitions on retaliation. The training will also include information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence, and information on consent and the role drugs and alcohol can play in the ability to consent. The training will also make students aware of the College's prohibition against sexual harassment, sexual violence and retaliation; educate students on how to recognize such forms of sex discrimination when they occur; inform students regarding how and to whom any incidents of sexual harassment, sexual violence and retaliation should be reported, including information related to the employee categories and the mandatory reporting requirements of all employees not designated as confidential employees; and provide a general overview of Title IX, the rights this law confers on students, the resources available to students who have experienced sexual harassment, sexual violence and retaliation, and the role and authority of OCR to enforce Title IX. This training will be presented in lay terms familiar to College students, The College will assess how to make sure all of the student body and community receive training.

**Reporting Requirement:**

By August 31, 2017, and by the same date in 2018 and 2019, the College will provide documentation to OCR demonstrating that it has provided the training referenced in Section E(4) above. The documentation will include, at a minimum, the date(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any materials used or distributed during the training; and a sign-in sheet with the names and titles of the individuals who attended the training.

**F. DISSEMINATION OF INFORMATION REGARDING SEXUAL MISCONDUCT (INCLUDING SEX DISCRIMINATION AND/OR SEXUAL HARASSMENT/VIOLENCE)**

The College will, as appropriate, revise its existing materials or develop new materials on sexual misconduct to be distributed to students during orientation and upon receipt of complaints of sexual misconduct. The materials will contain information on what constitutes sexual misconduct, what to do if a student has been subjected to sexual misconduct, and contact information for on- and off-campus resources for students who have been subjected to sexual misconduct. In addition, the College will include information on how to file a complaint of sexual misconduct with the College; the name and contact information for the College's Title IX Coordinator or the individual with whom complaints are filed, and a description of the Title IX Coordinator's role; information on how to obtain counseling and academic assistance in the event of sexual misconduct; and information on what interim measures can be taken to protect a complainant and how to request interim measures if the alleged perpetrator lives on campus and/or lives in the same dorm and/or attends the same classes as the complainant.

**Reporting Requirement:**

By March 1, 2017, the College will submit for OCR's review and approval, the materials referenced in Section F, above.

Within 60 days of OCR's approval of the materials, the College will provide documentation to OCR demonstrating that it has implemented Section F above, including a link to where the material is posted on the College's website. The documentation will include information about which of the College offices will be responsible for distributing the materials upon receipt of a complaint of sexual misconduct (including sex discrimination, sexual harassment, and/or sexual assault/violence).

**G. CAMPUS-BASED COMMITTEE**

The College will create a Committee consisting of: (i) the College's Title IX Coordinator(s); (ii) an additional College-level administrator with knowledge, responsibilities and authority relevant to the duties of the Committee; (iii) representative administrators, faculty members and students; (iv) representatives from any community-based organizations which provide services to the College related to sexual harassment/violence prevention; and (v) such other individuals as the College determines appropriate, such as College counselors or health-service workers. The Committee will develop a plan to be implemented at the College for educating students and

employees about issues related to sexual harassment, including what constitutes sexual harassment and the impact it has on individual students and the educational environment, the prohibition of sexual harassment in the educational setting, the importance of reporting sexual harassment, how and to whom to report incidents of sexual harassment, the College's obligation to respond appropriately to notice of sexual harassment, and potential consequences and corrective action if harassment is found. The College will implement the plan and monitor its effectiveness.

**Reporting Requirements:**

By March 30, 2017, the College will provide OCR with a list of names and titles of the members of the Committee, meeting dates and meeting minutes.

By August 1, 2017, and by the same date in 2018 and 2019, the College will submit to OCR for review a list of recommendations submitted by the Committee, as well as a list of the recommendations that were adopted by the College. In particular, this list will include a copy of the Committee's recommended actions relating to the procedures, outreach, and training, and/or other College practices addressed by this Agreement, together with supporting information that explains the bases for the recommendation (such as climate checks), and the College's plans with respect to those recommendations (including timeframes for such plans).

**H. CLIMATE CHECKS**

The College will conduct a climate check with students to assess the steps and measures taken pursuant to this Resolution Agreement and otherwise by the College to achieve its goal of a campus free of sexual misconduct, in particular sexual assault/violence. The climate check may be accomplished in many ways, including focus groups, open forum information session, publicized walk-in hours for campus community input or through a written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as a counselor, should they wish to discuss this issue in person. Any survey used should contain questions about the student's knowledge of sexual misconduct (including sex discrimination and/or sexual harassment/violence), any experiences with sexual misconduct while attending the College, and the student's awareness of the College's sexual misconduct/Title IX policies and procedures.

The College will submit for OCR review and approval a description of the tools used for conducting a climate check or series of climate checks. The description will include the College's strategy for implementing the climate check(s) and analyzing the results. Information gathered during these climate checks will be used to inform future proactive steps taken by the College to provide an environment that is safe and supportive to all students and in compliance with Title IX. Finally, part of the College's ongoing climate checks will include informing students about to whom they can report concerns of sexual misconduct (including sex discrimination and/or sexual harassment/violence), such as the Title IX Coordinator or a counselor, as described in other provisions of this Agreement. The College will submit proposed future revisions to its climate check tool(s) for OCR review and prior approval during the monitoring of the Agreement.

**Reporting Requirement:**

By June 1, 2017, and by the same date in 2018 and 2019, the College will provide documentation to OCR demonstrating implementation of Section H above, including a description of how the climate check(s) were completed, summary frequency tables of the student responses formatted in a manner that does not disclose the responses of individual students; and proposed actions, if appropriate, that the College plans to take in response to the information gathered during the climate checks.

**I. COMPLAINT REVIEWS**

**1. Review of Complaints from May 2015 to Present**

In accordance with Title IX and the standards outlined in Section A of this Agreement, the College will review the complaints and reports of sexual harassment and/or sexual assault made from May 2015 through the date of this Agreement (each, a “Complaint”), in order to determine whether each Complaint was investigated promptly and equitably, including but not limited to, assessing whether:

1. the appropriate definitions and analyses were used under Title IX;
2. the appropriate evidence standard in investigating allegations of sexual misconduct was applied;
3. the interim relief provided to protect the complainant during the pendency of the investigation was appropriate;
4. the written notice of the outcome (including any appeal) and appeal rights was provided to the complainant and the accused; and
5. the steps taken to prevent the recurrence of sexual misconduct and to address any hostile environment created by the harassment and/or assault were sufficient.

**Reporting Requirement:**

By June 30, 2017, prior to issuing any determinations, the College will submit to OCR for review and approval the results of its findings regarding each Complaint, as well as the action, if any, that the College proposes to address any problems identified in the manner in which these Complaints were handled, including appropriate remedies that still may be available for the complainants and/or accused students in those cases.

Within 45 days of OCR’s approval, the College will take appropriate action to address any problems identified in its reviews.

**2. Review of Identified Incidents.**

In accordance with Title IX and the standards outlined in Section A of this Agreement, the College will review the following complaints of sexual harassment and/or sexual assault made from the 2012-2013 through the 2014-2015 academic years, and will make the following assessments:

- (a) Interim Suspensions.
  - (i) By April 1, 2017, the College will assess whether the interim suspensions imposed upon the Student and Students 1, 2, and 3, were the result a sufficient level of inquiry and consideration of the rights of students, including the accused, the victim, and the risk of threat to the school community.
  - (ii) If the College determines that it did not engage in a sufficient level of inquiry prior to imposing the interim suspensions, it will consider providing a written offer to the Student and/or Students 1, 2 or 3 to remove each expulsion from all relevant educational records, including each student's transcript, as well as an offer to allow the Student and/or Students 1, 2, or 3 to complete their degrees at the College and reimburse them the documented costs incurred for enrollment at a different educational institution and any other appropriate measure, including counseling.
  - (iii) Within 45 days of the date of OCR's approval of the College's determination, the College will issue, by certified mail, an offer of the steps it is prepared to take to fully and effectively address the error.
- (b) Investigation Relating to the Student, and Students 1, 2, and 3.
  - (i) By April 1, 2017, the College will conduct and/or complete its investigation of the allegations under its revised Title IX policies and procedures referenced in Section A above.
  - (ii) As part of this process, the College will determine whether new witnesses need to be interviewed, whether previously interviewed individuals need to be brought in for follow-up questioning, and whether further documentation needs to be obtained.
  - (iii) The College will ensure that the investigation is adequate, reliable and impartial in accordance with its revised procedures, and the College will provide each party with a written summary of its findings.
  - (iv) If the College determines that its investigation did not comply with the requirements of Title IX, it will consider appropriate remedies

including providing a written offer to the Student and/or Students 1, 2 or 3 to remove each expulsion from all relevant educational records, including each student's transcript, as well as an offer to allow the Student and/or Students 1, 2, or 3 to complete their degrees at the College and reimburse them the documented costs incurred for enrollment at a different educational institution and any other appropriate measure, including counseling, and will submit its proposed remedies to OCR for review and approval.

- (v) Within 45 days of the date of OCR's approval of the College's determination, the College will issue, by certified mail, an offer of the steps it is prepared to take to fully and effectively address the error.

**Reporting Requirements:**

By April 1, 2017, prior to issuing any determinations, the College will submit to OCR for review and approval the results of its review conducted pursuant to Section I(2)(a-b), including all supporting materials relating to the College's reviews, and the College's planned action(s) to address any problems identified in the reviews.

Within 45 days of OCR's approval, the College will take appropriate action to address any problems identified in its review of the complaint involving the Student and Students 1, 2 and 3.

Within 90 days of OCR's approval, the College will provide OCR with documentation of its notice to the parties, pursuant to Section I(2)(a-b).

- (c) Investigation of Incidents 2, 3, 7, 9, 11-13.
  - (i) For Incidents 2, 3, 7, 9, 11, 12 and 13, the College will assess whether, in conducting its initial investigation, both parties were provided with the opportunity to present witnesses and other evidence.
  - (ii) In the event that the College determines that any party in any of the above-referenced incidents was denied this opportunity, the College will reinvestigate the incident under its revised Title IX policies and procedures referenced in Section A above.
  - (iii) As part of this process, the College will determine whether new witnesses need to be interviewed, whether previously interviewed individuals need to be brought in for follow-up questioning, and whether further documentation needs to be obtained.
  - (iv) The College will ensure that the investigation is adequate, reliable and impartial in accordance with its revised procedures, and the



College will provide each party with a written summary of its findings.

- (v) If the College identifies deficiencies in the manner that it processed and resolved Incidents 2, 3, 7, 9, 11, 12 or 13, the College will take such actions necessary to appropriately address the revised finding.
- (vi) Within 45 days of OCR's approval of the proposed resolution, the College will issue, by certified mail, an offer of the steps it is prepared to take to fully and effectively address any identified deficiencies, including, but not limited to, counseling.
- (d) For Incidents 1, 2, 3, 7, 10, 11 and 13, the College will assess whether there are any appropriate remedies that may still be available for the complainants in these cases, such as counseling or academic adjustments, and, if appropriate, will make an offer in writing to the complainant for the provision of such services.
- (e) For Incidents 1-3, 5, 7, and 9-13, the College will provide written notice to both parties of the outcome of its additional investigation of the complaint.
- (f) For Incidents that will be reinvestigated, the College will offer counseling or other appropriate services to individual students during its reassessment of these incidents.

**Reporting Requirements:**

By June 30, 2017, prior to issuing any determinations, the College will submit to OCR for review and approval the results of its review conducted pursuant to Section I(2)(c-f), including all supporting materials relating to the College's reviews, and the College's planned action(s) to address any problems identified in the reviews.

Within 45 days of OCR's approval, the College will take appropriate action to address any problems identified in its reviews.

Within 45 days of OCR's approval, the College will provide OCR with documentation of its notice to the parties, pursuant to Section I(2)(c-f).

**J. TRACKING OF COMPLAINTS**

By August 1, 2017, and by the same date in 2018 and 2019, the College will provide OCR with documentation concerning its responses and handling of all sexual misconduct/Title IX allegations reported during the previous year, including incident and complaint files, a summary of the allegations reported to the College and information about the individual(s) who received and processed the initial complaints, the outcome of the sexual misconduct/Title IX investigations, as well as the outcome of any disciplinary matters related to the allegations, and any supporting documentation. Each incident and complaint will also indicate status, including

whether the incident or complaint process is complete or on-going at the time materials are produced to OCR.

**K. RECORDKEEPING**

By December 30, 2016, the College will submit to OCR for review and approval its assessment and modifications regarding its data-retention policy, including the preservation of documentation for any sexual discrimination/harassment complaints and the elimination of the practice of destroying tapes immediately after the appeal process has been completed, to ensure that the College's data-retention policy is consistent with Title IX.

**Reporting Requirement:**

By January 15, 2017, the College will provide OCR with the assessment it completed in accordance with Section K of this Agreement, and any proposed revisions to the College's data-retention policy.

**L. MONITORING**

The College understands that OCR will not close the monitoring of this agreement until OCR determines that the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX, at 34 C.F.R. §§ 106.8(a), 106.8(b), 106.9, and 106.31, which were at issue in this case. The College also understands that, by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title IX, at 34 C.F.R. §§ 106.8(a), 106.8(b), 106.9, and 106.31, which were at issue in this case. In addition, the College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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/s/  
President/Designee  
Wesley College

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September 30, 2016  
Date