



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
WESTERN DIVISION, SEATTLE OFFICE

Henry M. Jackson Federal Building
915 Second Avenue, Room 3310
Seattle, Washington 98174-1099

January 25, 2000

Mr. Ramsey R. Pedersen
Provost
Honolulu Community College
874 Dillingham Boulevard
Honolulu, Hawaii 96817


Re: Honolulu Community College
OCR Reference No. 10992146

Dear Mr. Pedersen:

This is to notify you that the Office for Civil Rights (OCR) is closing the above-referenced complaint against Honolulu Community College based on the enclosed Agreement to Resolve by the college. The agreement, when fully implemented, will resolve the allegation and issue raised in the complaint.

We appreciate the cooperation that you and your staff extended to OCR to achieve a satisfactory resolution of this case. We look forward to receiving the college's first report under the monitoring provisions of the agreement by February 29, 2000. If you have any questions concerning this letter, please feel free to contact me at (206) 220-7893.

Sincerely,


Tania G. Lopez
Attorney

Enclosure

cc: Mary Perreira, Director of EEO/AA
Ruth Tsujimura, Assistant General Counsel

AGREEMENT TO RESOLVE

I. INTRODUCTION

To resolve the issues raised by case No. 10992146, Honolulu Community College makes this Agreement to Resolve.

II. GENERAL PROVISIONS

- A. This agreement shall become effective upon the college's receipt of a letter from the OCR advising the college that the actions it has committed to take as specified in the agreement, when fully implemented, will resolve the issues raised in the above-referenced case.
- B. This agreement resolves the issues raised in case No. 10992146 and is not intended to constitute, nor shall it be deemed to constitute, an admission by the college of any violation of title IX of the Education Amendments of 1972, or any other law.

III. SUBSTANTIVE COMMITMENTS

A. Staff Training

By March 31, 2000, the college will provide for training as described below for all college staff responsible for conducting investigations of complaints filed by students which allege discrimination of any kind in violation of Title IX:

1. Provide information and guidance which increases awareness of the specific procedures and guidelines of the college which relate to the circumstances under which a sexually hostile environment may be found.
2. Provide information and guidance about how implementation of the college's sexual harassment procedures relate to the college's obligation to ensure that individuals are not subjected to sex-based discrimination or harassment in any college-sponsored program or activity. Specifically, college staff should be made aware that staff must fully respond to written or verbal concerns of sex-based discrimination or harassment in a manner that ensures that students are not subjected to a hostile environment on the basis of sex.

Page 2 - Agreement to Resolve, Case No. 10992146

3. Provide information and guidance to ensure that staff is made aware that the college is responsible under Title IX to investigate concerns of sex-based discrimination or harassment that may arise independent of a formal complaint of sexual harassment. The college is not obligated to waive any timeliness considerations for investigating such allegations, except as permitted by the college's complaint processing procedures. Staff should also be made aware that notice to the college of possible sexual harassment may be written or oral, direct or indirect, and made to any responsible college employee, including an instructor or counselor. Additionally, staff should be informed that witness testimony and other sources of information may suggest a sexually hostile environment even though the issue being investigated is unrelated to this concern.
4. Provide information and guidance to staff to ensure that individuals who file complaints under Title IX are provided with notice of the outcome of the complaint and, if appropriate, an assurance that the college will take steps to prevent recurrence of any harassment. In accordance with HRS section 92F-14(b)(4)(B), staff may disclose the following information related to employment misconduct that results in an employee's suspension or discharge:
 - (i) the name of the employee;
 - (ii) the nature of the employment related misconduct;
 - (iii) the agency's summary of the allegations of misconduct;
 - (iv) findings of fact and conclusions of law; and
 - (v) the disciplinary action taken by the agency, when the following has occurred: the highest nonjudicial grievance adjustment procedure timely invoked by the employee or the employee's representative has concluded; a written decision sustaining the suspension or discharge has been issued after this procedure; and thirty calendar days have elapsed following the issuance of the decision.

In addition, where the employment misconduct does not result in suspension or discharge, staff will release any information needed to provide adequate notice of the outcome of the complaint process, as permitted by law.

Page 3 - Agreement to Resolve, Case No. 10992146

5. Ensure that staff is made aware that the confidentiality of the complaint process should be explained to all witnesses that are interviewed as part of the complaint process. All witnesses (including students, teachers, administrative and support staff) should be informed not to discuss any aspect of the complaint with any other individuals associated with the college. Witnesses who are employees of the college should also be made aware that retaliatory acts of any kind against complainants are strictly prohibited.

B. Individual Remedies

1. Prior to OCR's investigation of this case, the college took certain actions regarding the instructor who was identified in this complaint to ensure that the type of behavior at issue is not repeated. Any and all additional necessary remedial actions regarding the instructor will be taken in a timely manner, and will be reported to OCR by the date reflected in section IV.B., below. The disclosure of all relevant information responsive to this provision of the agreement is permitted under HRS section 92F-19(a)(3), which permits disclosure of government records to the federal government if the disclosure is for the purpose of a civil law enforcement activity authorized by law.
2. By February 15, 2000, the college will send a letter to the student who is the subject of this complaint which explains the college's prohibition against sex discrimination and its intolerance for behavior which may create a sexually hostile environment. The letter will provide the student with the name of a specific staff member at the college to contact if the student would like to seek additional assistance for any educationally related issues that may have resulted from the concerns raised in this complaint. By this date, the college will also provide information to the complainant which specifically describes the steps taken by the college to ensure that students are not subjected to discrimination in violation of Title IX.

IV. REPORTING PROVISIONS

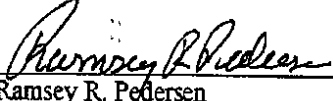
- A. By April 7, 2000, the college will provide OCR with copies of all materials used to provide training, including a copy of the training syllabus and materials provided to college staff, as well as the dates of the training and a

Page 4 - Agreement to Resolve, Case No. 10992146

list of college staff who attended the training, by title, pursuant to section III.A., above.

- B. By February 29, 2000, the college will provide OCR with a report regarding the college's implementation of section III.B., above. This report shall describe the remedial actions that have been taken to date regarding the instructor named in this complaint, as described in section III.B.1. This report may include personnel notices, letters, training, or any other documentation which reflects the nature of the actions taken, and the date(s) on which the actions were taken. The report shall also include a copy of the letter to the student described in section III.B.2. of this agreement.

Signed:



Ramsey R. Pedersen
Provost
Honolulu Community College

1/24/02
Date