# **Department of Health and Human Services Office of Civil Rights - Voluntary Resolution Agreement Compliance Scorecard**

Academic Year 2020-2021 As of: 10/20/2021

## Introduction

### Scope:

This compliance review was conducted to validate university compliance with requirements of the voluntary resolution agreement between the U.S. Department of Health and Human Services Office of Civil Rights (HHS OCR) and Michigan State University (the university). The objectives of this review were:

* To determine if the agreed upon obligations are substantially completed;
* To determine if the completed obligations comply with settlement agreement requirements;
* To determine if output of completed obligations are supported by appropriate documentation.

In order to accomplish our objectives, we:

* Categorized all obligations into actionable steps. The document contained a total of 60 actionable steps that were incorporated into our review.
* Identified individuals responsible for ensuring that obligations were being met.
* Interviewed responsible parties to determine the status of the obligation.
* Reviewed supporting documentation to validate completion of obligations in accordance with agreement requirements.

### Conclusions:

Based on our review of the voluntary resolution agreement and actions taken towards the obligations within we confirmed that the obligations for the period 9/15/2021 – 10/20/2021 were met and supported by comprehensive and appropriate supporting documentation. Our review did not identify any material inconsistencies with resolution agreement requirements. For this period we determined 49 items are implemented, 0 items are submitted, 1 item is in progress, and 10 have not started (including six that are contingent on other events occurring). An updated progress measurement of the obligations by category is provided below:

### MSU Status Key\*\*:

| **Status** | **Definition** |
| --- | --- |
| Implemented | Action completed, no additional reporting requirements unless designated as ongoing requirement in comments. For ongoing requirements, policy/procedure implemented to monitor future compliance. |
| Submitted | Initial required reporting obligation provided to government agency. |
| In Progress | Action initiated, development/improvement continues. |
| Not Started | Action not initiated but not yet due (or action is contingent). |

## Resolution Agreement Compliance Status

### Notice of Non-Discrimination

Title IX and Section 1557 regulations require recipients of federal funds to issue notices of non-discrimination which inform the community that the recipient does not discriminate on the basis of sex, among other things.

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.C.** | MSU HealthTeam will revise its Notice of Non-Discrimination applicable to MSU HealthTeam's services and facilities. *Reporting Deadline: October 5, 2019* | Implemented | *Revisions to the Notice of Non-Discrimination were made. Approved by HHS OCR April 13, 2020.* |
| **IV.C.1** | The revised Notice of Non-Discrimination must contain sufficient information to inform individuals of their protections under Title IX and Section 1557. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised Notice of Non-Discrimination, approved by HHS OCR.* |
| **IV.C.2** | The revised Notice of Non-Discrimination must notify individuals that HealthTeam does not discriminate on the basis of sex and that Title IX and Section 1557 protect both women and men from discrimination on the basis of sex. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised Notice of Non-Discrimination, approved by HHS OCR.* |
| **IV.C.3** | The revised Notice of Non-Discrimination must notify individuals of their right to file a grievance or complaint and describe the HealthTeam complaint process.  *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised Notice of Non-Discrimination, approved by HHS OCR.* |
| **IV.C.4** | The revised Notice of Non-Discrimination must inform individuals that inquiries regarding the application of Title IX and/or Section 1557 may be referred to MSU's Title IX Coordinator and contain the name, title, office address, and the business email and telephone number of the Title IX Coordinator and Health Care Civil Rights Specialists. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised Notice of Non-Discrimination, approved by HHS OCR.* |
| **IV.C.5** | The revised Notice of Non-Discrimination must state that individuals have the right to file complaints with the Department of Health and Human Services, Office of Civil Rights. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised Notice of Non-Discrimination, approved by HHS OCR.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.C.6** | MSU HealthTeam shall post the revised Notice of Non-Discrimination in certain locations (including on the home page of MSU's website, the MSU HealthTeam website and each HealthTeam facility website, in publications targeted to members of the public, in physical locations where HealthTeam interacts with the public, and within the patient welcome letter/packet).  *Reporting Deadline: May 13, 2020 (30 days following OCR approval)* | Implemented | *HealthTeam has posted the Notice of Non-Discrimination in required locations. In addition, a policy was implemented to ensure ongoing compliance with Section 1557 posting requirements.* |
| **IV.C.7** | For significant publications and significant communications that are small-sized, MSU HealthTeam shall include the statement "MSU HealthTeam does not discriminate on the basis of race, color, national origin, sex, age or disability in its health programs or activities". *Reporting Deadline: May 13, 2020 (30 days following OCR approval)* | Implemented | *HealthTeam has added this statement to their current brochure and standard marketing reference documents to maintain this language in future publications as they are printed. A policy was also implemented to ensure ongoing compliance.* |
| **IV.C.8** | MSU HealthTeam will not satisfy this provision by solely adopting or incorporating MSU's currently-existing Title IX/Section 1557 Notice of Non-Discrimination. *Reporting Deadline: October 5, 2019* | Implemented | *Revisions to the Notice of Non-Discrimination were made. Approved by HHS OCR April 13, 2020.* |
| **IV.C.9** | Organizational or operational changes affecting or pertaining to the Notice of Non-Discrimination must be reflected in an amended version of the Notice of Non-Discrimination and posted. *Reporting Deadline (contingent on organizational change): 30 days following organizational/operational change* | Not Started | *Action is contingent upon future relevant organizational/operational changes.* |

### Policies and Procedures

To ensure patients, staff and other individuals are not discriminated against by MSU HealthTeam on the basis of sex, consistent with the requirements of the Resolution Agreement as well as Title IX and Section 1557 (Note: Some of the action items below are similar to requirements within the Clery settlement agreement. Reference to the applicable Action Item in the Clery Compliance Scorecard is provided below):

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.D.1** | MSU will revise policies and procedures (including the Notice of Non-Discrimination and the Relationship Violence & Sexual Misconduct (RVSM) Policy and appendixes).  *Reporting Deadline: October 5, 2019* | Implemented | *Revisions to the Notice of Non-Discrimination and the RVSM Policy were made. Approved by HHS OCR April 13, 2020.* |
| **IV.D.2** | The revised Notice of Non-Discrimination and the revised RVSM Policy will be disseminated to each new patient, posted on the MSU HealthTeam's website and each MSU HealthTeam facility website, and posted on the home page of the MSU website. (See Clery VI.7) *Reporting Deadline: October 17, 2020* | Implemented | *The Notice of Nondiscrimination and RVSM Policy are posted and will be included in the patient portal.* |
| **IV.D.3** | The revised RVSM Policy must state that it applies to all grievances or complaints of sex discrimination filed by patients, staff, or other individuals related to MSU HealthTeam. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |
| **IV.D.4** | The revised RVSM Policy must clarify and define the conduct prohibited by Title IX and Section 1557's prohibition against sex discrimination. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |
| **IV.D.5** | The revised RVSM Policy must state where and to whom individuals can file grievances or complaints of sex discrimination (including Title IX Coordinator, Health Care Civil Rights Specialists, OIE, Police, and OCR) and the procedures to be followed upon receipt of a report.  *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |
| **IV.D.6** | The revised RVSM Policy must explain that MSU strongly encourages any individual who has been subjected to sex discrimination to immediately report. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.D.7** | The revised RVSM Policy must provide for joint training and regular communication between MSU HealthTeam and MSU Police on the investigation of sex discrimination. *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |
| **IV.D.8** | The revised RVSM Policy must state that HealthTeam has a policy regarding patient privacy, chaperones, and informed consent (chaperone policy). *Reporting Deadline: October 5, 2019* | Implemented | *Component included in the revised RVSM Policy, approved by HHS OCR.* |
| **IV.D.9** | MSU will include the revised Chaperone Policy as an appendix to the RVSM Policy and post with the RVSM Policy on its websites (the HealthTeam website, facility websites, and MSU home page). (See Clery VI.1) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.10** | MSU will revise the Chaperone Policy to require staff to secure informed consent before initiating sensitive examinations (and if a patient lacks decision making capacity or declines to participate, HealthTeam will secure the consent of the patient's guardian). (See Clery VI.2) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.11** | MSU will revise the Chaperone Policy to require HealthTeam staff to follow Universal Precautions when conducting sensitive examinations.  *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.12** | MSU will revise the Chaperone Policy to require HealthTeam staff to provide patients with an explanation of the examination before beginning, an appropriate gown, privacy for undressing and dressing, and sensitive draping to maximize physical privacy. (See Clery VI.2 and VI.3) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.D.13** | MSU will revise the Chaperone Policy to require HealthTeam staff to always honor the patient's request to have a support person present.  *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.14** | MSU will revise the Chaperone Policy to allow patients and/or their parents/support persons to request a chaperone at any time. The patient's wishes should determine the sex of the chaperone. (See Clery VI.3 and VI.4) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.15** | MSU will revise the Chaperone Policy to require chaperones for all sensitive examinations. For sensitive examinations of patients older than 10 years of age, the chaperone must be an authorized member of MSU HealthTeam. (See Clery VI.5) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.16** | MSU will revise the Chaperone Policy to require the use of a Chaperone to be documented in each patient's medical record. If a patient declines or refuses a chaperone, this must be documented in the medical record and the patient or guardian must sign a waiver. (See Clery VI.5 and VI.6) *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.17** | MSU will revise the Chaperone Policy to require the physical examination of an infant, toddler, or child to always be performed in the presence of a parent or guardian. If a parent or guardian is unavailable or the parent's presence will interfere with the physical examination, an authorized member of the health care team should be present during the physical examination. *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.D.18** | MSU will revise the Chaperone Policy to require HealthTeam staff to always honor the patient's request to have a chaperone present during a sensitive examination (even if a support person is also present).  *Reporting Deadline: October 5, 2019* | Implemented | *The Chaperone Policy is identified in the RVSM Policy, as approved by HHS OCR.* |
| **IV.D.19** | MSU HealthTeam will work with OCR to adjust or amend these proposed policies and procedures to address any comments and concerns identified by OCR.  *Reporting Deadline: OCR to approve thirty (30) calendar days after receiving MSU's submission* | Implemented | *HHS OCR has approved the Notice of Non-Discrimination, RVSM Policy, and Chaperone Policy.* |
| **IV.D.20** | MSU HealthTeam shall implement the policies and procedures and distribute, by mail, email, or other means, the revised policies and procedures, to all MSU HealthTeam staff. *Reporting Deadline: Thirty (30) calendar days after OCR approval* | Implemented | *HealthTeam has implemented and distributed the approved policies.* |
| **IV.D.21** | MSU will not satisfy this provision by merely adopting or incorporating MSU's currently-existing Title IX/Section 1557 policies and procedures. *Reporting Deadline: October 5, 2019* | Implemented | *Revisions to the Notice of Non-Discrimination and the RVSM Policy were made. Approved by HHS OCR April 13, 2020.* |
| **IV.D.22** | Organizational or operational changes affecting or pertaining to the RVSM Policy must be reflected in an amended version of the RVSM Policy and procedures and distributed by mail, email or other means to applicable staff. *Reporting Deadline (contingent on organizational change): 30 days following organizational/operational change* | Not Started | *Action is contingent upon future relevant organizational/operational changes.* |

### Health Care Civil Rights Specialists

To ensure grievances or complaints of sex discrimination are received and to assist the Title IX Coordinator with training and monitoring compliance with this Agreement:

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.E.1** | MSU's Title IX Coordinator will designate an employee or employees to serve as a Health Care Civil Rights Specialist ("Specialist") responsible for each building that contains a HealthTeam clinic. | Implemented | *Tracy Leahy appointed and formally approved by HHS OCR as the Specialist for all HealthTeam buildings.* |
| **IV.E.2** | The Title IX Coordinator will develop educational materials for MSU HealthTeam staff during the term of this Agreement. | Implemented | *Ongoing requirement. The Prevention, Outreach and Education department (POE) hired a HealthTeam Medical Specialist, who began work on this area at the end of March 2020.* |
| **IV.E.3** | The Specialist(s) will work with the Title IX Coordinator to train HealthTeam staff in their responsibilities under Title IX and Section 1557. | Implemented | *Ongoing requirement. A proposed training program covering Title IX/Section 1557 was submitted to HHS OCR for approval on December 15, 2020.* |
| **IV.E.4** | The Specialist(s) will be available to advise HealthTeam staff on their obligation to report incidents of sex discrimination and assist in reporting. | Implemented | *Ongoing requirement. The Health Care Civil Rights Specialist is available to advise HealthTeam staff on these matters.* |

### Grievance Procedures and Dedicated Health Care Investigator

To ensure all grievances or complaints alleging sex discrimination, filed by patients, staff or other individuals related to MSU HealthTeam, are reviewed and investigated by, or under the supervision of, a dedicated Health Care Investigator employed or engaged by OIE:

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.F.1** | OIE shall engage a qualified, objective, independent Health Care Investigator to review, investigate, and resolve all MSU HealthTeam grievances or complaints from any source alleging sex discrimination prohibited by Title IX and/or Section 1557. *Reporting Deadline: Proposed candidates due 9/5/2019, OCR approval within 30 days, formal engagement of investigator 30 days after OCR approval (by 11/4/2019).* | Implemented | *Proposed candidates were submitted to HHS OCR on 9/4/2019. Approval was obtained and Husch Blackwell has been engaged to handle health care investigations.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.F.2** | The Health Care Investigator will follow the procedures for review, investigation and resolution of grievances and complaints outlined in the revised Notice of Non-Discrimination and RVSM Policy. MSU's grievance and complaint procedures will comply with Title IX's and Section 1557's prohibition of sex discrimination, and this Agreement. | Implemented | *Ongoing requirement. Investigator was engaged, engagement letter includes these terms. RVSM Policy and Notice of Non-Discrimination procedures updated in accordance with section IV-C and IV-D.* |
| **IV.F.3** | The procedures for grievance and complaints will require the Health Care Investigator to interview appropriate parties, review all relevant information, make determinations, and request that HealthTeam impose disciplinary actions and refer to law enforcement agencies as appropriate. | Implemented | *Ongoing requirement. Engagement letter states investigator will comply with the terms of this agreement in the course of their duties.* |
| **IV.F.4** | The Health Care Investigator shall provide bi-annual reports to OCR and MSU HealthTeam by January 31 and June 30 of each year, for three (3) years after his or her engagement. *Reporting Deadline: January 31, 2022* | Implemented | *Ongoing requirement.* 1/31/2020 - *Submitted.* 6/30/2020 - *Submitted.* 1/31/2021 - *Submitted.* 6/30/2021 - *Submitted.* 1/31/2022 - 6/30/2022 - |
| **IV.F.5** | The Title IX Coordinator or their designee shall submit an Annual Report to OCR and MSU HealthTeam, which reviews MSU's overall compliance with this Agreement and their obligations under Title IX and Section 1557. Each annual report shall include recommendations for necessary revisions to policies/procedures covered in this agreement (Notice of Non-Discrimination, RVSM Policy, Training Program materials, Grievance Form).  *Reporting Deadline: August 30, 2022.* | Implemented | *Ongoing requirement.* 8/30/2020 - *Submitted.* 8/30/2021 - *Submitted.* 8/30/2022 - |
| **IV.F.6** | The Health Care Investigator and MSU HealthTeam shall retain and make available to OCR, upon OCR's request, all work papers, supporting documentation, correspondence and draft reports related to each HealthTeam grievance or complaint. | Implemented | *Ongoing requirement. Work papers, supporting documentation, correspondence and draft reports will be maintained in accordance with OIE retention guidelines.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.F.7** | MSU may not terminate the Health Care Investigator except for cause and may only do so with OCR's consent. | Not Started | *Action is contingent upon future relevant events.* |
| **IV.F.8** | On the third anniversary of the Health Care Investigator's engagement, the Title IX Coordinator may assign HealthTeam investigations using his or her discretion and release the Health Care Investigator from further duties. | Not Started | *Action is contingent upon future relevant University decisions.* |

### Grievance Form

To assist individuals with the filing of grievances or complaints relating to sex discrimination.

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.G.1** | The Title IX Coordinator will prepare a form for the filing of all sex discrimination grievances or complaints related to MSU HealthTeam.  *Reporting Deadline: November 4, 2019* | Implemented | *A grievance form was prepared. Approved by HHS OCR April 13, 2020.* |
| **IV.G.2** | The Grievance Form must include types of incidents (sex discrimination/sexual harassment/sexual assault) for individuals to identify as violations of Title IX/Section 1557.  *Reporting Deadline: November 4, 2019* | Implemented | *Component included in the form approved by HHS OCR.* |
| **IV.G.3** | The Grievance Form must state that retaliation and retaliatory harassment is prohibited against any individual who files a grievance or complaint or participates in a grievance or complaint.  *Reporting Deadline: November 4, 2019* | Implemented | *Component included in the form approved by HHS OCR.* |
| **IV.G.4** | The Grievance Form must include the contact information for the Title IX Coordinator, OIE, and each HealthTeam Specialist. *Reporting Deadline: November 4, 2019* | Implemented | *Component included in the form approved by HHS OCR.* |
| **IV.G.5** | The Grievance Form must state that individuals have a right to file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights. *Reporting Deadline: November 4, 2019* | Implemented | *Component included in the form approved by HHS OCR.* |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.G.6** | MSU will not satisfy this provision by merely adopting or incorporating MSU's currently-existing discrimination complaint form. *Reporting Deadline: November 4, 2019* | Implemented | *A grievance form was prepared. Approved by HHS OCR April 13, 2020.* |
| **IV.G.7** | Organizational or operational changes affecting or pertaining to the grievance form must be reflected in an amended version of the form. *Reporting Deadline: (contingent on organizational change): 30 days following organizational/operational change* | Not Started | *Action is contingent upon future relevant organizational/operational changes.* |

### Training

To ensure MSU HealthTeam staff have an understanding of Title IX and Section 1557 requirements and ways to maintain continuous compliance:

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.H.1** | The Title IX Coordinator or designee will create a mandatory Title IX/Section 1557 training program applicable to MSU HealthTeam services and facilities for all HealthTeam staff. *Reporting Deadline: December 16, 2020 (90 days after OCR final approval of policies and procedures)* | Implemented | *Training program materials were approved by HHS on October 7, 2021.* |
| **IV.H.2** | The training program should include general instruction on compliance with Title IX and Section 1557 and training on all of the new and revised policies and procedures described in Section IV.D. | Implemented | *Training program materials were approved by HHS on October 7, 2021.* |
| **IV.H.3** | Title IX Coordinator will provide the approved training to all active MSU HealthTeam Staff. *Reporting Deadline: 180 days after OCR approval of training materials* | In Progress | *POE, on behalf of the Title IX Coordinator, will begin providing the approved training to all HCI staff.* |
| **IV.H.4** | The Title IX Coordinator or designee will train MSU HealthTeam staff who were absent from the active workforce during the initial training and new HealthTeam staff hired after the initial training upon their return or start date.  *Deadline: 30 days after return to or start of work* | Not Started |  |

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| **Action Item** | **Task** | **MSU Status** | **Comments** |
| **IV.H.5** | MSU HealthTeam will keep a record of the date of training for each staff member for at least 6 years following the date of each training. | Not Started |  |
| **IV.H.6** | The Title IX Coordinator will review the training program annually (at least) and/or when reasonable/appropriate (for example: change in regulation). | Not Started |  |
| **IV.H.7** | The Title IX Coordinator will update the training program to reflect any material changes in policies/procedures, federal regulation, and OCR guidance. | Not Started |  |
| **IV.H.8** | MSU will not satisfy this provision by solely adopting or incorporating MSU's currently-existing Title IX/Section 1557 Training Program. | Implemented | *Training program materials were approved by HHS on October 7, 2021.* |
| **IV.H.9** | Organizational or operational changes that affect or pertain to training program materials will be reflected in an amended version of the training program materials, which must be distributed to staff at the next regularly scheduled training. | Not Started | *Action is contingent upon future relevant organizational/operational changes.* |

\*\***Note**: Effective for the January 2021 update, the definitions for Implemented and Submitted status were expanded to provide additional clarity on action items that are classified as ongoing requirements. For all ongoing requirements, internal audit has either confirmed a policy/procedure was implemented or will continue to obtain evidence of required periodic submissions.