

**SETTLEMENT AGREEMENT**

, <i>et al.</i>	)	
(Complainants)	)	
	)	
vs.	)	CRC Complaint No. 12-AL-020
	)	
Asheville Buncombe Community Christian	)	
Ministry, Inc., Asheville, North Carolina	)	
	)	
(Respondent)	)	
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**I. BACKGROUND**

This Settlement Agreement (Agreement) arises as a result of a complaint of discrimination that was filed with the U.S. Department of Labor’s (DOL’s) Civil Rights Center (CRC) by the Southern Poverty Law Center (SPLC) on behalf of \_\_\_\_\_, a self-identified female veteran, and all similarly situated persons (Complainants), against the Asheville Buncombe Community Christian Ministry (ABCCM), Asheville, North Carolina (Respondent). The complaint alleged, among other things, that ABCCM discriminated against female veterans, based on sex, by denying them equal opportunity to participate in the same job training and education programs as male participants. Following receipt of the Complaint, CRC advised ABCCM that it would investigate the following issue:

Whether, during the period of July 2011 to the present, ABCCM discriminated against the Complainants based [on] their sex (female) by denying them the opportunity to participate in the same job training and education programs as male participants.

CRC conducted its investigation pursuant to two statutes: Section 188 of the Workforce Investment Act of 1998 (WIA Section 188), previously published at 29 U.S.C. § 2938,<sup>1</sup> and its implementing regulations at 29 CFR part 37; and Title IX of the Education Amendments Act of 1972 (Title IX), 20 U.S.C. §§ 1681 to 1688, and DOL’s regulations implementing that title, at 29 CFR part 36. Both statutes prohibit discrimination based on sex.

In a letter dated September 18, 2015, CRC notified ABCCM of the most significant findings of its investigation. The corrective actions agreed upon as a result of these findings are listed in subsection (II)(A) below, headed “Corrective Actions for Significant Findings Listed in Letter.”

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<sup>1</sup> As of July 1, 2015, WIA was replaced by the Workforce Innovation and Opportunity Act (WIOA). As a result, the previously-published sections of WIA have been deleted from the U.S. Code. However, since the allegedly-discriminatory actions took place while WIA was in effect, CRC has the authority to determine whether WIA was violated.

CRC's additional findings, and actions to be taken by ABCCM as a result of those findings, are listed in subsection (II)(B) below, headed "Additional Findings and Corrective Actions." This Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or regulation or of any liability or wrong doing on the part of ABCCM. To avoid the burden or expense of further investigation and legal proceedings, USDOL and ABCCM agree as follows:

## II. DETAILS OF THE AGREEMENT

ABCCM agrees that it has implemented, or will implement, the responsibilities set forth in this Agreement to resolve this complaint and to ensure that it is fully compliant with Title IX, WIA Section 188, WIOA Section 188,<sup>2</sup> and their implementing regulations. ABCCM agrees to the following:

### A. CORRECTIVE ACTIONS FOR SIGNIFICANT FINDINGS LISTED IN LETTER

#### 1. Residential Program Models

With the assistance of experts in identifying and avoiding sex/gender discrimination, ABCCM will revise its residential program models in a manner that ensures that male and female veterans are treated equally in all aspects of their participation in ABCCM programs.

The residential program model revisions will include, but not be limited to:

- Weekly meeting requirements
- Volunteering requirements
- Numbers and content of required life/personal skill classes
- VRQ Transitional Housing Per Diem Program and SH H.E.A.R.T. Program, including how residents earn and lose points and benefits

#### 2. Residence Based Features

With the assistance of experts in identifying and avoiding sex/gender discrimination, ABCCM will revise its residential rules and expectations to ensure they are applied equally to female veterans at SH and male veterans at VRQ, and that benefits and services are provided equally at both facilities.

The revisions to the residence-based features will include, but will not be limited to:

##### a. **Transportation**

ABCCM will provide female veterans of SH equal transportation privileges, including ABCCM vans, bus tickets/passes or any other types of transportation provided for male residents of VRQ. In establishing an equal transportation plan for male and female veterans, ABCCM will consider the different locations of VRQ and SH.

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<sup>2</sup> See fn. 1. As a recipient of financial assistance under WIOA, ABCCM is obligated to comply with the provisions of WIOA Section 188 and its implementing regulations.

**b. Life/Personal Skills Classes**

ABCCM will standardize the subjects of the life/personal skills classes offered to male and female residents and will offer an equal schedule. The life/personal skills classes will not be segregated by gender.

**c. VRQ Gym, Library, and Nurse**

Female veterans of SH will be given equal access to the VRQ library and gym, including transportation from SH to VRQ for use of those facilities. For the gym, ABCCM will provide female locker rooms, changing facilities and restroom facilities equal to that provided to the males, but will not segregate the areas of the gym where athletic activities are performed. Veterans of both sexes will have equal access to a nurse and receive health benefits in the same manner.

**d. Meals and Food**

ABCCM will provide meals of equivalent quality and quantity and on an equal basis to male and female residents, including, but not limited to, preparing food, sack lunches, and snacks. The revised program to be submitted to CRC pursuant to subsection (II)(A)(4)(a) below will include a copy of ABCCM's revised instructions to volunteer groups at VRQ, informing them of the requirement to prepare a sufficient number of meals for female veterans of SH. All food donated to ABCCM will be distributed equally to male and female residents.

**e. Rules, expectations and other benefits**

ABCCM will not have different rules or expectations or provide different benefits to female veterans at SH as compared to the male veterans at VRQ, including, but not limited to:

- Curfew, bed checks and roll call hours
- Eligibility for overnight passes and extensions
- Working and employment expectations
- Going to school, or completion of an educational program
- Mentoring
- Room assignments and allowable room appliances
- Life/personal skill classes (types of classes and required attendance)
- Weekly case management meetings
- Daily/weekend/holiday program
- Earning points
- Building and neighborhood etiquette
- Visitors and visitor protocol
- Theft
- Smoking,
- Prescription medicine
- Television policies
- Phone messages postings
- House group outings and recreational events
- Laundry
- Bedroom Maintenance
- Accountability
- Strike Policies
- Dress codes

### **3. Vocational Training and Services**

ABCCM will provide all qualified female veterans equal opportunity to participate in the same vocational training and education as offered to male veterans, regardless of the location of the training. Specifically, ABCCM will develop a list of training programs and classes that its veteran residents may attend free of charge, whether offered on or off-site, including, but not limited to, the registered nursing program; the internet technology certification program; the truck driving training program; the green collar job training in solar technology, LEED building design, and bio-fuel technology; and culinary arts and hospitality management programs. This list will be explained to each veteran in meetings discussing the veteran's future career goals with the caseworker or other advising staff, and posted in a conspicuous place at both SH and VRQ so that it can be seen and read by all veteran residents. If a veteran asks permission to obtain funding from ABCCM for a course or program not on the list, ABCCM will provide funding only if it updates the list within seven (7) days to add that course, so that others may be made aware of the opportunity to take the same course. Criteria for referrals for any vocational training or education will be the same for females as for males.

### **4. Deadlines for Above Actions**

- a. *Within sixty (60) days* of the date on which this agreement goes into effect, ABCCM will review its residential program models, residence-based features, and vocational training and services; develop proposed revisions designed to ensure that male and female veterans are treated equally in all aspects of the programs, as described in detail above; and submit the revised programs to CRC for approval. The review will be conducted, and revisions developed, with the assistance of recognized experts in identifying and avoiding sex/gender discrimination, including experts in providing appropriate and nondiscriminatory services to victims of domestic violence. ABCCM may seek assistance from CRC in identifying appropriate experts.
- b. *Within thirty (30) days* of receipt, CRC will either approve, or provide comments on, the proposed revisions. If CRC does not provide such approval or comments within the thirty-day period, the revisions will be deemed approved, unless CRC notifies ABCCM otherwise. If CRC does not provide such comments and/or requested changes within the thirty-day period, the revisions will be deemed approved, unless CRC notifies ABCCM otherwise. CRC's failure to respond under this subsection does not relieve ABCCM of its duty to comply with Title IX and WIA/WIOA.<sup>3</sup> If any policies and procedures are deemed approved without CRC's input by operation of this subsection, that approval does not constitute a waiver of any other obligation created by/listed in this agreement.
- c. *Within forty-five (45) days* of CRC's approval (or deemed approval), ABCCM will implement all revisions that have been approved (or deemed approved). Implementation will include advising current participants, instructors, volunteers, and staff, both orally and in writing, of the revisions. Implementation will also include advising other stakeholders (including, but not necessarily limited to, Asheville-Buncombe Technical Community College [AB Tech] and the Randolph School) of the revisions in writing.

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<sup>3</sup> See fns. 1 and 2.

- d. *Within fifteen (15) days* of implementation, ABCCM will submit to CRC documentation demonstrating that it has taken the above actions to implement the revisions to the programs.

## B. ADDITIONAL FINDINGS AND CORRECTIVE ACTIONS

CRC found the following additional violations, and ABCCM agrees to take the following actions as a result.

### 1. Equal Opportunity Officer/Title IX Coordinator

#### Findings:

CRC's investigation originally found that ABCCM failed to designate either an Equal Opportunity Officer (EO Officer), as required by 29 CFR 37.23-37.26, or an employee with the responsibility to coordinate its efforts to comply with and carry out its responsibilities under Title IX, as required by 29 CFR 36.135(a). After receiving CRC's September 18, 2015, letter, ABCCM submitted to CRC a document designating \_\_\_\_\_ as "Independent Equal Employment Opportunity ('EEO') Officer." Subsequently, ABCCM has designated attorney Scott Dillin as an "Independent Equal Employment ('EEO') Officer" to replace Mr. Dillin will also carry out the duties of the EO Officer and Title IX Coordinator.

#### Corrective Actions:

ABCCM will:

- a. ensure that Mr. Dillin:
  - i. satisfies the requirements set forth in 29 CFR 37.24 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.24),<sup>4</sup> and
  - ii. will carry out the responsibilities listed in 29 CFR 37.25, the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.24),<sup>5</sup> and 29 CFR 36.135(a).
- b. comply with the obligations listed in 29 CFR 37.26 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.26)<sup>6</sup> with regard to the EO Officer.

#### Deadlines:

- a. *Within thirty (30) days* of the date on which this agreement goes into effect, ABCCM will provide to CRC for approval:

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<sup>4</sup> On July 23, 2015, the Department published in the Federal Register an initial version of 29 CFR part 38, which included only technical changes updating the WIA nondiscrimination regulations at 29 CFR part 37 (e.g., replacing references to "WIA" with references to "WIOA"). See 80 FR 43,872 (July 23, 2015). This initial version of the WIOA nondiscrimination regulations is in effect as of the date of the signing of this Settlement Agreement. However, on January 26, 2016, DOL published a Notice of Proposed Rulemaking (NPRM), to reflect developments in equal opportunity and nondiscrimination jurisprudence, changes in the practices of recipients and beneficiaries since 1999 (when the WIA nondiscrimination regulations were issued), and proposed changes in DOL's enforcement procedures and processes. See Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act, Proposed Rule, 81 Fed. Reg. 4494. The precise citations to the provisions of the final version of the WIOA nondiscrimination regulations that will govern Equal Opportunity Officers will not be known until issuance of a final rule based on the NPRM. See 80 FR at 43,873.

<sup>5</sup> See fn. 4.

<sup>6</sup> See fn. 4.

- i. resume(s)/curriculum vitae listing Mr. Dillin's qualifications for the EO Officer and Title IX Coordinator positions;
  - ii. an organizational chart or other document showing the reporting relationship between Mr. Dillin and ABCCM top management with regard to EO matters related to program participants, residents, applicants for ABCCM programs, and members of the public;
  - iii. a detailed description of the intended duties and responsibilities of the EO Officer and Title IX Coordinator positions; and
  - iv. documentation demonstrating that ABCCM has:
    - i. made the Equal Opportunity Officer's name, and position title, address, and telephone number (voice and TDD/TTY), public;
    - ii. Ensured that the EO Officer's identity and contact information appears on all internal and external communications about ABCCM's nondiscrimination and equal opportunity programs;
    - iii. Assigned sufficient staff and resources to the Equal Opportunity Officer, and provided the EO Officer with the necessary support of top management, to ensure compliance with the nondiscrimination and equal opportunity provisions of WIA/WIOA, Title IX, and their implementing regulations; and
    - iv. Ensured that the EO Officer and the EO Officer's staff have been or will be afforded the opportunity to receive the training necessary and appropriate to maintain competency.
- b. *Within thirty (30) days* of receipt, CRC will either approve, or provide comments on, the above submissions. If CRC does not provide such approval or comments within the thirty-day period, the submissions will be deemed approved, unless CRC notifies ABCCM otherwise. CRC's failure to respond under this subsection does not relieve ABCCM of its duty to comply with Title IX and WIA/WIOA. If any submission is deemed approved without CRC's input by operation of this subsection, that approval does not constitute a waiver of any other obligation created by/listed in this agreement.

## 2. Complaint Processing Procedures

### **Findings:**

CRC found that ABCCM failed to develop and implement procedures for processing discrimination complaints that comply with the requirements of 29 CFR 37.76.

### **Corrective Actions and Deadlines:**

*Within thirty (30) days* of the date on which the duties/responsibilities of the EO Officer/Title IX Coordinator are approved, or deemed approved, by CRC as described in paragraph (II)(B)(1)(b) above, ABCCM will develop, and submit to CRC for approval, proposed procedures for processing discrimination complaints that comply with the requirements of 29 CFR 37.76 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.76).<sup>7</sup>

- a. *Within thirty (30) days* of receipt, CRC will either approve, or provide comments on, the proposed procedures. If CRC does not provide such approval or comments within the thirty-day period, the procedures will be deemed approved, unless CRC notifies ABCCM

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<sup>7</sup> See fn. 4.

otherwise. CRC's failure to respond under this subsection does not relieve ABCCM of its duty to comply with Title IX and WIA/WIOA. If any procedures are deemed approved without CRC's input by operation of this subsection, that approval does not constitute a waiver of any other obligation created by/listed in this agreement.

- b. *Within seven (7) days* of approval (or deemed approval), ABCCM will:
  - i. Distribute written copies of the procedures to all participants, instructors, volunteers, staff, and other stakeholders
  - ii. Inform all participants, instructors, volunteers, and staff orally about the new procedures
- c. ABCCM will inform all new participants of the procedures, and of their rights to be free from discrimination, as part of the intake process.

### **3. Notice and Communication**

#### **Findings:**

CRC found that ABCCM failed to disseminate the exact language of the equal opportunity notice set forth in 29 CFR 37.30 to the persons and entities listed in 29 CFR 37.29, or to publish the notice in the places and formats required in 29 CFR 37.31. The non-discrimination policies included in the SH and VRQ resident handbooks are not consistent with the requirements of the regulations cited above. ABCCM also failed to comply with the notice requirements of 29 CFR 37.34.

#### **Corrective Actions and Deadlines:**

- a. *Within fifteen (15) days* of the date on which the duties/responsibilities of the EO Officer /Title IX Coordinator are approved, or deemed approved, by CRC as described in paragraph (II)(B)(1)(b) above, ABCCM will:
  - i. Disseminate the exact language of the equal opportunity notice set forth in 29 CFR 37.30 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.30) to the persons and entities listed in 29 CFR 37.29 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.29), including, but not limited to, all participants, instructors, volunteers, staff, and other stakeholders and other stakeholders (including, but not limited to, AB Tech and the Randolph School).
  - ii. Publish the notice in the places and formats required in 29 CFR 37.31 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.31).
- b. *Within thirty (30) days* of the date on which this agreement goes into effect, ABCCM will:
  - i. include the tag lines "equal opportunity employer/program" and "auxiliary aids and services are available upon request to individuals with disabilities" in all recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, volunteers, clients, or the public at large, to describe its programs or the requirements for participation in those programs, as required by 29 CFR 37.34(a) and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.34).
  - ii. Submit to CRC a detailed description of how, and/or documentation that, it, complied with the requirements of paragraphs (B)(3)(a) and (b)(i) above.

#### 4. Outreach

##### **Findings:**

CRC found that ABCCM did not take appropriate steps to provide universal access to their WIA Title I-financially assisted programs and activities by conducting outreach as required by 29 CFR 37.42.

##### **Corrective Actions:**

ABCCM will conduct outreach as required by 29 CFR 37.42 and the parallel provisions of 29 CFR part 38 (currently 29 CFR 38.42). In particular, ABCCM will:

- a. Advertise its programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations, including (but not limited to) women in general, women's advocacy organizations, and women veterans;
- b. Send notices about openings in its programs and/or activities to schools or community service groups that serve various populations, including (but not limited to) women in general, women's advocacy organizations, and women veterans; and
- c. Establish relationships with appropriate community service groups, including (but not limited to) women's advocacy organizations and other groups that serve (i) women in general and (ii) women veterans, and consult with them about ways in which ABCCM may improve its outreach and service to various populations, including women in general and women veterans in particular.

##### **Deadlines:**

- a. *Within thirty (30) days* of the date on which the duties/responsibilities of the EO Officer /Title IX Coordinator are approved, or deemed approved, by CRC as described in paragraph (II)(B)(1)(b) above, ABCCM will submit one or more outreach plans to CRC that comply with the requirements referred to in paragraph II(B)(4) above. These plans will, at a minimum, include detailed lists of all outreach activities to be conducted, the community or advocacy groups with which ABCCM is collaborating, and relevant dates and deadlines in compliance with paragraph (c) below.
- b. *Within thirty (30) days* of receipt, CRC will either approve, or provide comments on, the proposed plan(s). If CRC does not provide such approval or comments within the thirty-day period, the plan(s) will be deemed approved, unless CRC notifies ABCCM otherwise. CRC's failure to respond under this subsection does not relieve ABCCM of its duty to comply with Title IX and WIA/WIOA. If any plan is deemed approved without CRC's input by operation of this subsection, that approval does not constitute a waiver of any other obligation created by/listed in this agreement.
- c. Execution of the outreach plan(s) will be completed *within six (6) months* of approval (or deemed approval).
- d. *Within seven (7) days* of the date on which execution of the outreach plan(s) is completed, ABCCM will provide documentation to CRC demonstrating completion.

#### C. TRAINING

At least once per calendar year, ABCCM will provide accurate, up-to-date training on its responsibilities not to discriminate, and to provide equal opportunity, on the basis of gender.



This training will be provided to all participants, instructors, volunteers, and staff. ABCCM will be responsible for all fees and costs associated with this training.

1. **Training plan.** ABCCM will develop a plan for providing the training described above.

The training plan will:

- a. Identify each trainer, who will be a recognized expert in the topic(s) to be addressed, and provide information regarding expert qualifications. ABCCM will consult in advance with CRC regarding suggestions of experts who may have the appropriate qualifications;
- b. Identify, by name and title, the member(s) of ABCCM's staff who are responsible for overseeing and implementing the training plan;
- c. Provide a detailed list of courses and topics, which will describe the contents of each course and the method of training being used; and
- d. Specify time tables for delivery that comply with the provisions set forth below.

2. **Deadlines.**

- a. *Within ninety (90) days* of the date on which this agreement goes into effect, ABCCM will submit the proposed training plan to CRC for review.
- b. *Within thirty (30) days* of receiving the proposed plan, CRC may approve the plan, or provide ABCCM with written comments on and/or requested changes to the plan. If CRC does not provide such comments and/or requested changes within the thirty-day period, the plan will be deemed approved, unless CRC notifies ABCCM otherwise. CRC's failure to respond under this subsection does not relieve ABCCM of its duty to comply with Title IX and WIA/WIOA. If any proposed plan is deemed approved without CRC's input by operation of this subsection, that approval does not constitute a waiver of any other obligation created by/listed in this agreement.
- c. ABCCM will deliver the initial training *within thirty (30) days* of the date on which the training plan is approved (or deemed approved) by CRC.
- d. Thereafter, ABCCM will provide the training to all new staff, instructors, volunteers, and participants *within seven (7) days* of their joining ABCCM, and will deliver refresher training to all staff at least once per calendar year.

#### D. REPORTING

1. **File Interim Report.** ABCCM will submit an Interim Report to CRC describing the actions taken to date to comply with the Agreement and their dates of completion, as well as identifying staff members responsible for each action. **Deadline:** the Interim Report will be filed *within one hundred eighty (180) days* of the date on which the Agreement is signed.
2. **File Final Report.** ABCCM will submit a Final Report to CRC describing all actions taken to comply with the Agreement and their dates of completion, as well as identifying staff responsible for each action. **Deadline:** the Final Report will be filed *within eighteen (18) months* of the date on which the Agreement is signed.

### **III. ADDITIONAL PROVISIONS**

#### **A. DURATION OF AGREEMENT**

The effective date of this Agreement is the date of the last signature below. The Agreement will expire two (2) calendar years after its effective date, or when all terms of the Agreement have been satisfied, whichever is later.

#### **B. EXTENSION OF DEADLINES**

ABCCM may request, and CRC may grant, extensions of the deadlines set forth in this Agreement for good cause shown.

#### **C. ADDITIONAL DOCUMENTATION AND/OR VERIFICATION**

Within fifteen (15) days of receiving any notification or documentation described in this Agreement, CRC may require additional documentation and/or verification of actions taken to ensure that all terms of the Agreement have been satisfied.

#### **D. RETALIATION PROHIBITED**

ABCCM agrees that there will be no discrimination or retaliation of any kind against or any other person because of filing the complaint in this case; participating in the investigation of the complaint; participating in settlement discussions; opposing any practice the person believes violates the applicable legal provisions related to nondiscrimination or equal opportunity; or exercising any rights or privileges related to the nondiscrimination or equal opportunity laws enforced by CRC.

#### **E. WITHOUT PREJUDICE TO OTHER PENDING CASES**

The parties agree that the execution of this Agreement does not affect any other case pending before the US Department of Labor.

#### **F. BREACH**


This Agreement is enforceable by CRC pursuant to the provisions of 29 CFR 36.605, 37.97, and 37.102-37.105. In accordance with these provisions, ABCCM agrees that the issues specifically identified in and resolved through this Settlement Agreement will not recur. Furthermore, if CRC finds that ABCCM has failed to comply with any part of this Agreement, CRC will notify ABCCM of such breach. Failure of ABCCM to come into compliance within ten (10) days of its receipt of the CRC's notification of a breach of this Agreement may result in CRC referring the matter to the Department of Justice for appropriate action, or, after opportunity for a hearing, in the termination or denial of Federal financial assistance extended to ABCCM. In the latter circumstances, CRC will not be required to prove a violation of the underlying legal requirements, but only that ABCCM has violated this Agreement.

**G. SEVERABILITY**


In the event that any provision or part of this Agreement should be held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be reformed and enforced to the maximum extent permitted by law. If such provision cannot be reformed, then it will be severed from this Agreement and the validity and enforceability of the remaining provisions of this Agreement will not be affected thereby.

**SIGNATURES**

This Agreement is jointly entered into by Asheville Buncombe Community Christian Ministry, Inc., and the US Department of Labor, Civil Rights Center.

  
\_\_\_\_\_  
Reverend Scott Rogers  
Executive Director  
Asheville Buncombe Community Christian Ministry, Inc.

9-30-2016  
Date

  
\_\_\_\_\_  
Naomi Barry-Pérez  
Director  
Civil Rights Center

30 Sept. 2016  
Date