

**Resolution Agreement  
Southwestern College  
Case Number 09-13-2306**

In order to resolve the compliance issues identified during the investigation of the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), Southwestern College agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Procedure No. 3430, Prohibition of Harassment and Discrimination

- a. The College will modify Procedure No. 3430 in the following ways.
  - i. Expand the description of who may file a complaint to include other individuals or entities such as a family member, representative, organization, or other third party wishing to file on behalf of an individual or group alleged to have suffered unlawful discrimination or harassment. (Section III.A.1.)
  - ii. Clarify that use of the Chancellor's Office complaint form is encouraged, but not required, and that complaints shall not be considered defective and rejected based upon a complainant's failure to file the complaint on that form. (Section III.A.2.)
  - iii. Clarify that the nature of disciplinary action imposed may be communicated to the complainant in some instances, including where the sanctions directly relate to the complainant and where otherwise necessary for the complainant to determine whether the College's remedial actions were sufficient to resolve the complaint. (Section III.D.)
- b. The College will distribute the modified Procedure No. 3430 to relevant personnel responsible for receiving and/or responding to complaints of discrimination, including harassment.
- c. The College will also take effective action, through training and/or written guidance, to ensure that:
  - i. determinations regarding whether an investigation is required under Section III.C. are based on an assessment of whether the facts alleged, if true, would tend to suggest that discrimination and/or harassment might have occurred and do not require the complainant to provide proof of the claim in order to obtain an investigation;
  - ii. if an investigation is denied because of insufficient information in the complaint, the complainant is advised in writing of the specific nature of information that is lacking and is provided an opportunity to respond; and
  - iii. if the College reaches a determination based on a partial investigation of the complaint, the complainant receives written notice of the outcome of that investigation, consistent with Section III.C.5.
- d. The College will include notice of the final modified Procedure No. 3430 on its website and in electronic student publications such as the Student Handbook, Catalog, and Schedule of Classes. The notice will inform students where to obtain a copy of the new Procedure. The

College will also include notice of the modified Procedure No. 3430 in printed student publications in the next regular printing cycle after the Procedure is finalized.

II. Reporting Requirements

- a. By March 31, 2014, the College will provide OCR with a draft of its modified Procedure No. 3430, consistent with provision I.a. Of this Agreement. Incorporating OCR's input, the College will finalize the Procedure and provide OCR a copy by April 30, 2014.
- b. By May 30, 2014, the College will confirm distribution of the modified Procedure No. 3430 to relevant personnel and notice to students of the modified Procedure, consistent with provisions I.b. and I.d. of this Agreement.
- c. By May 30, 2014, the College will report to OCR the effective action that it has taken to train and/or issue written guidance to relevant personnel, consistent with provision I.c. of this Agreement.

III. Monitoring

- a. 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 Section 504 of the Rehabilitation Act of 1973, at 34 C.F.R. §104.7(b), and Title II of the Americans with Disabilities Act of 1990, at 28 C.F.R. §35.107(b), which were at issue in this case.
- b. The College 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 regulation implementing Section 504, at 34 C.F.R. §104.7(b), and Title II, at 28 C.F.R. §35.107(b), which were at issue in this case.
- c. 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 a minimum of sixty (60) calendar days to cure the alleged breach.

\_\_\_\_\_/s/\_\_\_\_\_  
Melinda Nish  
Superintendent/President

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Date 3/3/14