

**Resolution Agreement  
Kellogg Community College  
OCR Docket #15-15-2017**

Kellogg Community College (“the College”) submits this Resolution Agreement (“Agreement”) to the U.S. Department of Education, Office for Civil Rights (“OCR”), to resolve compliance issues identified during OCR’s investigation of the above-referenced complaint and to ensure its compliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, as well as with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. This Agreement has been entered into voluntarily between the parties and does not constitute an admission by the College that the College is not in compliance with Section 504, the ADA and their implementing regulations. However, to resolve the compliance issues referenced above, the College agrees to take the following steps:

**ACTION STEPS – Individual Remedies**

1. By December 1, 2015, the College will send a certified letter to the last known address of the student identified in OCR Docket #15-15-2017 (“the Student”) notifying the Student:
  - a. of his opportunity to retake, at no cost to the Student, American Foundations (History 103) and Learning Strategies (TSLs 105) (the “Summer Courses”) or comparable courses (up to a total of 6 credits), during the 2015-2016 or 2016-2017 academic years, including the summer 2016 and summer 2017 terms. The letter will state that the Student must notify the College of his decision to retake the Summer Courses or comparable courses (a comparable history course is available; no comparable course exists for TSLs 105) within 30 days of receiving the letter. The College’s letter will further notify the Student that the grades he earned in the Summer Courses during the 2014 term, at his option, may be changed to “withdrawal,” and in matters under the control of the College, will not adversely affect his academic standing and his ability to take other courses or to avail himself of other opportunities at the College. Further, the letter will also explain that pursuant to this Agreement and OCR’s directive, the College will change the Student’s financial aid status (the Satisfactory Academic Performance (“SAP”) status) to what it was prior to the Student taking the Summer Courses. Pursuant to this Agreement, the Student’s SAP status will be changed from “suspension” back to “warning.”
  - b. that, should he choose to re-enroll, the Student will schedule and attend a meeting with the Director of Support Services at least 15 days before the start of the semester in which he enrolls to determine, through an interactive discussion based on appropriate documentation, what modifications to its academic requirements are necessary to ensure that such requirements do not discriminate or have the effect of discriminating against the Student because of his disability and what auxiliary aids and services are needed to ensure the Student an equal opportunity to participate in all of the College’s programs and activities in the most integrated

setting appropriate to the Student's needs, including classes for which he is registered and activities not granted College credit and for which no fees are paid, unless to do so would fundamentally alter the nature of a program or activity or constitute an undue burden. Based on that discussion, the College will provide the agreed upon auxiliary aids and services;

- c. that, should he choose not to re-enroll at the College or fail to give the College notice of his decision to retake the Summer Courses or comparable courses within 30 days of receipt of the letter, the College will reimburse him for expenses related to College-required books, fees, and supplies he incurred for the Summer Courses upon presentation of documentation of such expenses by the Student; and that his transcript may be modified, at his written or verbally-communicated option within 30 days of receiving the letter, so as to reflect approved withdrawal from the courses that he took during the summer 2014, and in matters under the control of the College, his withdrawal will not adversely affect his academic standing and his ability to take other courses or to avail himself of other opportunities at the College. It is understood that the Student will not be reimbursed for the Summer Courses' tuition and fees as those costs were paid for through a grant which will not have to be repaid nor will the Student be reimbursed for living expenses or any expenses not directly related to or required for the Summer Courses.
- d. The cost of required books and course required supplies to be reimbursed will be determined according to documentation of such costs submitted by the Student to the College and then reconciled by the College with their records. The letter will state that costs may be determined through receipts or other similar documentation, such as credit card statements, e-receipts from web sites, etc. The Student will not be reimbursed for items borrowed or rented, or purchased for a course other than the Summer Courses.

The letter will set forth a timeframe of 45 days from the date of the letter for the Student to submit such documentation regarding books and supplies to the College, as well as a specific contact person to whom it should be sent.

The College will take appropriate steps to ensure that all of its communications with the Student, including the communications outlined above, are as effective as communications with others, including by providing appropriate auxiliary aids and services where necessary, in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the Student. In determining what types of auxiliary aids and services are necessary, the College will give primary consideration to the requests of the Student. The College is not required to provide an auxiliary aid or service that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the College believe that the proposed auxiliary aid or service would fundamentally alter the service, program, or activity or would result in undue

financial and administrative burdens, the College has the burden of proving that provision of the requested auxiliary aid or service would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the College or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If provision of an auxiliary aid or service would result in such an alteration or such burdens, the College shall provide any other auxiliary aid or service that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the College.

- e. The College's letter will state that the College will provide the Student with reimbursement for the Summer Courses' books, fees, and course required supplies no later than 45 days from the College's receipt of documentation. If after review of submitted receipts it is determined by the College that no out of pocket reimbursements are required, the College will summarize this finding in a return letter to the Student within 45 days from the College's receipt of the Student's documentation.
- f. If no submission is received from the Student within the 45-day timeframe, no further action is required by the College to reimburse the Student or provide for reenrollment in the courses covered by this document. The College will send a letter to the Student within 10 days of the end of the 45-day timeframe explaining that no further action is required by the College.

**REPORTING REQUIREMENTS:** By December 1, 2015, the College will provide OCR with a copy of the letter sent to the Student pursuant to Item 1 of the Agreement.

By March 1, 2016, the College will provide OCR with information documenting the Student's choice of remedies pursuant to Item 1, and, should the Student select reimbursement, the College will provide information documenting said reimbursement, such as a copy of the check mailed to the Student and an itemized list of the costs reimbursed and the bases for those costs. If no submission is received from the Student within the 45-day timeframe, pursuant to Item 1.f of the Agreement, the College will provide to OCR a copy of the letter sent to the Student indicating that no further action is required.

Thirty calendar days after the start of each semester during the 2015-2016 and 2016-2017 academic years, including the summer 2016 and summer 2017 terms, the College will notify OCR whether or not the Student has re-enrolled. Should the Student re-enroll at the College, the College's report to OCR for that semester will include documentation that the Student was not charged for tuition, required fees, books, and supplies for the two Summer Courses or comparable courses (up to a maximum of 6 credit hours). The College will also provide OCR with information documenting its meeting with the

Student pursuant to Item 1.b of the Agreement, as well as information documenting provision of the agreed upon auxiliary aids, services, and/or modifications for those two courses and the College's effective communications with the Student.

**ACTION STEPS – Revision, Notification and Training on Section 504/Title II Obligations**

2. By December 31, 2015, the College will revise and submit to OCR for review and approval its Support Services policies contained on the College website to:
  - a. Ensure that the documents, neither as written nor as implemented, allow the College to deny modifications to its academic requirements that are necessary to ensure that such requirements do not discriminate, or have the effect of discriminating, on the basis of disability, against a qualified student with a disability, except as permitted by the Section 504 regulation at 34 C.F.R. § 104.44, for the reason that the necessary modification, adjustment or auxiliary aid was not specifically requested by the student's doctor or other licensed professional.
  - b. Ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.
  - c. Ensure that, if an auxiliary aid is necessary for classroom or other appropriate (nonpersonal) use, the College makes it available, and the student with a disability is not required to pay part or all of the costs of that aid or service.
  - d. Set forth reasonable documentation requirements for students with disabilities seeking disability services.
  - e. Ensure that the College takes appropriate steps to ensure that communications with students with disabilities are as effective as communications with others, in conformance with the requirements of the Title II regulation at 28 C.F.R. § 35.160, including that, in determining what types of auxiliary aids and services are necessary to ensure effective communication, the College gives primary consideration to the request of the student with a disability, and that the auxiliary aids and services are provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the student with a disability.
  - f. Explain that the College is not required to provide an auxiliary aid or service that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where personnel of the College believe that the proposed auxiliary aid or service would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, the College

has the burden of proving that provision of the requested auxiliary aid or service would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the College or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If provision of an auxiliary aid or service would result in such an alteration or such burdens, the College shall provide any other auxiliary aid or service that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the College.

- g. Remove any list of academic adjustments and auxiliary aids and services that appears in the College's disability services materials (e.g., the website, intake form), or clearly indicate on any such list that it is not intended to be exhaustive and that services to be provided will be determined on an individual basis.
  - h. Delete the Intake Form from the College website in relation to disability services materials.
3. Within 60 calendar days of receipt of the OCR-approved revised materials, the College will replace all of the old materials and make the new materials readily available to students on the College's website and anywhere else it distributes its disability services materials. The College will ensure that the materials are published online in a manner that is accessible to persons with visual impairments and other disabilities.

**REPORTING REQUIREMENTS:** By December 31, 2015, the College will provide OCR with a draft of its revised materials pursuant to Item 2 for review and approval.

Within 60 calendar days after receiving written notification from OCR of the OCR-approved materials, the College will submit documentation to OCR to verify that it has published the OCR-approved materials pursuant to Item 3, including copies of any notices issued and a link to the web page where the revised materials can be found in accessible format, and that it has revised or eliminated any other documents that were inconsistent with the OCR-approved materials.

4. By December 31, 2015, the College will notify all College instructors, Support Services staff, and other staff who work with students with disabilities of the College's obligation to comply with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act as they relate to students with disabilities in the postsecondary education setting. The notification will include notice of the College's obligation to:
- a. make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against qualified individuals with disabilities;

- b. not impose upon students with disabilities other rules or burdens that have the effect of limiting the participation of students with disabilities in the College's education programs or activities;
  - c. ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills;
  - d. take appropriate steps to ensure that all communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others, including by providing appropriate auxiliary aids and services where necessary, in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the person with a disability; and, in determining what types of auxiliary aids and services are necessary, to give primary consideration to the requests of the person with a disability in accordance with the Title II regulation; and
  - e. administer services, programs, and activities, including disability services, in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
5. By December 31, 2015, the College will submit to OCR for review and approval, training designed to inform all personnel in the College's Support Services Department of the College's obligation to comply with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act as they relate to providing academic adjustments and auxiliary aids to students with disabilities in the postsecondary education setting and effective communications with persons with disabilities. OCR may be available to assist with the training, upon request and advanced notice.
6. Within 60 calendar days of being notified by OCR that it has approved the training materials, the College will provide the training to all Support Services Department personnel.

**REPORTING REQUIREMENTS:** By December 31, 2015, the College will submit to OCR a copy of the notification sent to relevant College staff pursuant to Item 4 and a copy of the training materials designed to train personnel in the College's Support Services Department pursuant to Item 5.

Within 60 days of being notified by OCR that it has approved the training course, the College will submit documentation to OCR establishing that personnel in the College's Support Services Department have received the training, including the date(s) of the training(s); a copy of the training agenda; copies of training materials used; the name, title and qualifications of the person(s) who provided the training(s); and sign-in sheets showing the names and job titles of all persons who attended the training(s).

**GENERAL REQUIREMENTS**

The College understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the College understands that during the monitoring of this Agreement, 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 Section 504 at 34 C.F.R §§ 104.4 and 104.44, and Title II at 28 C.F.R. §§ 35.130 and 35.160, which were at issue in this case.

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 at 34 C.F.R §§ 104.4 and 104.44, and Title II at 28 C.F.R. §§ 35.130 and 35.160.

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.

\_\_\_\_\_/s/\_\_\_\_\_  
President or Designee

\_\_\_\_11/3/2015\_\_\_\_\_  
Date