

RESOLUTION AGREEMENT
Moore College of Art and Design
Docket Number 03152426

Moore College of Art and Design (the College) enters into this Resolution Agreement (Agreement) and makes the following commitments to the U.S. Department of Education, Office for Civil Rights (OCR), in order to resolve the allegations identified in the above-referenced complaint filed with OCR, under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 et seq.; and, to resolve the compliance concerns identified during the course of OCR's investigation of this complaint.

SECTION 504 COORDINATOR

1. Within 30 calendar days of the signing of this Agreement, the College will designate an employee(s) responsible for coordinating the College's compliance efforts under Section 504 in accordance with 34 C.F.R. § 104.7(a), and will publish the name or title and contact information, including address and telephone number, for that employee, on a continuing basis, in its recruitment materials, general publications, including the Student Handbook, and on the College's website in accordance with 34 C.F.R. § 104.8.

REPORTING REQUIREMENT: Within 45 days of the signing of this Agreement, the College will submit to OCR documentation, identifying the name, title, address and telephone number of the Section 504 Coordinator and copies of the notifications and/or publications, including the College's website, which provide this information.

NOTICE OF NONDISCRIMINATION

2. Within 45 calendar days of the signing of this Agreement, the College will submit to OCR for its review and approval its notice of nondiscrimination to ensure that it: 1) specifies the bases for nondiscrimination in its education programs and activities; and 2) identifies by name or title, address, and telephone number, the employee(s) responsible for coordinating the College's compliance efforts under Section 504.
3. Within 60 calendar days of receiving written notification from OCR that the revised notice of nondiscrimination is acceptable, the College will include the approved nondiscrimination statement on its website and in new and reprinted College publications, including catalogs, student handbooks, announcements, bulletins, and application forms, that it makes available to College students, employees, and applicants.

REPORTING REQUIREMENT: Within 100 calendar days of receiving written approval from OCR that the notice of non-discrimination meets the requirements of Action Step 2, the College will provide OCR documentation showing it has complied with Action Step 3 of this Agreement. Specifically, the College will provide copies of publications and

notices that contain the revised notice of non-discrimination and will provide a link to the notice on the College's website.

SECTION 504 GRIEVANCE PROCEDURES

4. Within 45 calendar days of the signing of this Agreement, the College will submit for OCR's review and approval its Section 504 grievance procedures to ensure they incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any prohibited actions under Section 504, in accordance with 34 C.F.R. § 104.7(b). As part of this process, the College will review and revise, as necessary, all complaint procedures that can be used for filing disability discrimination complaints to ensure that there is a clear and consistent process. The College's Section 504 grievance procedures will contain, at a minimum, the following elements:
 - a. notice to students, parents, and employees of the procedure, including how and where to file a complaint;
 - b. application of the procedure to complaints alleging disability discrimination carried out by students, employees, or third parties;
 - c. adequate, reliable, and impartial investigation of complaints, including the opportunity for all parties involved to present witnesses and other evidence;
 - d. designated and reasonably prompt timeframes for the major stages of the complaint process;
 - e. notice to the parties of the outcome of the complaint and the basis for the decision; and
 - f. an assurance that the College will take steps to prevent the recurrence of any actions, and to remedy the discriminatory effects on the complainant and others, if appropriate.

5. Within 60 calendar days of written approval from OCR that the College's Section 504 grievance procedures are consistent with the requirements of Section 504 as noted in Action Step 4, the College will adopt and implement the procedures, publish the procedures in its student handbooks, and post the procedures on its website in a section accessible to students and parents.

REPORTING REQUIREMENT: Within 100 calendar days of OCR's approval of the Section 504 grievance procedures, the College will provide OCR documentation showing it has complied with Action Step 5 of this Agreement, including copies of the written notices, how notices were distributed/published, and a link to the College's website where the Section 504 grievance procedures are located.

TRAINING

6. Within 90 days of OCR's written approval of the Section 504 grievance procedures, the College will provide training for all Disability Services staff, which includes all personnel who are involved in implementing the procedures outlined under Action Step 4 of this Agreement to ensure that staff are aware of and able to implement these procedures. The training will provide an overview of the legal standards for students with disabilities under Section 504 and the College's applicable Section 504 grievance procedures.

REPORTING REQUIREMENT: Within 100 days of OCR's written approval of the Section 504 grievance procedures, the College will provide OCR documentation showing it has completed the training described above. The documentation must identify the following: a) the date, time and location of the training; b) the topics addressed at the training(s) (the College may provide OCR an outline of the training and copy of the materials disseminated at the training); c) the name(s), title(s), and credentials of the individual(s) who conducted the training; and d) the name and title of each College administrator or employee who attended the training (a sign-in sheet with the attendees' names, titles, and work locations is sufficient).

POLICIES AND PROCEDURES

7. Within 45 days of the signing of this Agreement, the College will submit to OCR for its review and approval its revised Involuntary and Voluntary Medical Leave of Absence policies and procedures, and any other relevant policies and procedures, to ensure they are consistent with the provisions of Section 504 when determining whether a student with a documented or perceived disability poses a direct threat to the health and safety of others. Where the risk of harm to others¹ cannot be considered imminent (i.e., situations determined by the College not to be an emergency), and the College seeks to determine whether a student with a documented or perceived disability is a direct threat to others,² the College's revised policies and procedures will include the following:
 - a. Before prohibiting a student with a documented or perceived disability from participating in or benefiting from the College's services, programs or activities, the College will make an individualized assessment of the direct threat posed by

¹ The only statutory or regulatory authority for the use of the direct threat analysis in Section 504 concerns a direct threat to others. Although the concept of direct threat to self does exist in the employment context in Title I of the ADA, there is no statutory or regulatory basis to interpret the direct threat to self in employment cases as creating a direct threat to self in cases involving the receipt of education under Section 504.

² Under Section 504, a person is not a qualified individual with a disability if the person poses a direct threat to the health or safety of others that cannot be eliminated by modification of policies, practices, or procedures, or by the provision of auxiliary aids and services. See *School Board of Nassau v. Airline*, 480 U.S. 273, 287 (1987).

the student. The determination that a student poses a direct threat to the health or safety of others must be based on an individualized and objective assessment, rather than on speculation about future risk. The determination must be based on reasonable judgment founded on the most current medical knowledge from qualified professionals or on the best available objective evidence. Factors to be considered in the direct threat determination are: the duration, nature and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of the College's policies, practices, or procedures, or the provision of auxiliary aids and services, will mitigate the risk. The College will consult with individuals with in depth knowledge experience in the area of the student's disability as part of the direct threat determination.

- b. Where safety is of immediate concern, the College may set interim conditions on the student while completing the assessment, provided that the student is given notice of the College's actions and is provided minimal due process.
- c. If the College determines a student poses a direct threat to others, the College may condition the student's future receipt of a benefit or service upon the student's provision of documentation showing that the student is no longer a threat. Such evidence may include, but not be limited to, a treatment plan or periodic reports from a physician. The College will not, however, condition the provision of a benefit or service upon a showing by a student that he or she has eliminated behaviors that are a manifestation of a disability, unless such behavior significantly contributed to the direct threat.

In revising its Involuntary and Voluntary Medical Leave of Absence policies, the College will remove references to “psychological or emotional problems or a mental disorder” and “harm-to-self” language as they currently appear in the policies.

8. Within 60 days of OCR’s written notification that the revised policy meets the requirements of Action Step 7, the College will notify students, faculty, and staff of its policy and procedure for determining whether a student with a documented or perceived disability poses a direct threat to the health or safety of others by posting the standards and procedures on the College's website, including them in the Student Handbook, and other effective means of notification.

REPORTING REQUIREMENT: Within 100 days of OCR’s written approval of the policy, the College will provide OCR with documentation showing it has complied with Action Step 8 of this Agreement. The College will provide OCR with copies of the publications including the standards and procedures or provide OCR with links to the College’s website where the information can be found.

9. Within 90 days of OCR's written approval of the College's policies/procedures identified in Action Step 7 above, the College will provide training to its designated Section 504 Coordinator and any College official(s) responsible for implementing the College's policies/procedures identified in Action Step 7 above, regarding its proper implementation and administration consistent with the provisions of Section 504.

REPORTING REQUIREMENT: Within 100 days of OCR's written approval of the College's policies and procedures, the College will provide OCR with documentation showing it has completed the training described in Action Step 9. The documentation must identify the following: 1) the date, time, and location of the training; 2) the topics addressed at the training (the College may provide OCR an outline of the training and a copy of the materials disseminated at the training); 3) the name(s), title(s), and credentials of the individual(s) who conducted the training; and 4) the name and title of each College employee who attended the training.

XXXXXX

xx- paragraphs redacted-xx

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(a), (b)(1)(i); 104.7(a) and (b); 104.8(a) and (b); 104.43(a), which were at issue in this complaint.

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(a), (b)(1)(i); 104.7(a) and (b); 104.8(a) and (b); 104.43(a), which were at issue in this complaint.

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
Moore College of Art and Design

5/19/16
Date