

RESOLUTION AGREEMENT
University of Maryland Eastern Shore
OCR Case No. 03-19-2003

The U.S. Department of Education, Office for Civil Rights (OCR) and the University of Maryland Eastern Shore (the University) enter into this Resolution Agreement (Agreement) to resolve the issues in this above-referenced complaint. This Agreement does not constitute an admission of liability, nor does it constitute a finding of non-compliance or wrongdoing on the part of the University. The University assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35.

Prior to the completion of OCR's investigation, the University agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

Acknowledgement

The University acknowledges its obligation under Section 504 and Title II to ensure that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any University program or activity.

Direct Threat to Others: Policy Revisions and Training

1. Within 60 days of signing this agreement, the University will develop or review and, if necessary, revise, its policies and procedures for direct threat assessment, as they relate to students with disabilities, to be consistent with the Title II implementing regulation at 28 C.F.R. § 35.139(a) and (b). The policy will be in accordance with the following guidelines:
 - a. The University may exclude a student from or place special conditions on a student's participation in its programs or activities if it concludes that the student presents a direct threat, meaning the student poses a high probability of substantial harm to the health and safety of others.
 - b. Where the University has a reasonable basis for believing that a student poses a direct threat, it will make an individualized assessment of the direct threat posed by the student, based on a reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, timing, probability, and severity of the risk; and whether reasonable modifications of the University's policies, practices, or procedures will mitigate the risk. In making the assessment, the University will confer with individuals

who have in-depth knowledge of, and experience in, the area of the student's disability. Pending the outcome of a formal assessment, the University may set interim conditions on the student, provided the student is afforded minimal due process (i.e., notice of the proposed action, the opportunity to present information on his or her behalf, and a right to appeal).

- c. If the University determines that a student does not pose a direct threat to the health and safety of others, or determines that the student no longer poses such a direct threat, the University will not exclude the student from or place special conditions on the student's participation in its programs or activities, and as such, provide the proper written notice to the student of this determination, effectively readmitting the student and restoring all his/her attendant privileges, benefits and services, as a student in the University's academic program in the status of, and at the academic level attained by the student prior to the determination that he/she was a direct threat.
- d. The University will not require a student to provide a comprehensive mental health evaluation and/or similar documentation, except: (i) in the course of conducting an individualized assessment of whether that student poses a direct threat to the health and safety of others, when it has a reasonable basis to believe that the student may pose such a threat; or (ii) as otherwise reasonably necessary for the University to comply with its obligations under Section 504 and Title II.
- e. If the University makes a final determination that a student poses a direct threat to the safety of others, it will give the student the opportunity and/or forum to address these charges and present evidence supporting a contrary finding.
- f. Following a determination that a student poses a direct threat to the safety of others, the University must communicate to the student the exact circumstances, including timetables if applicable, that would cause the student to no longer be considered a direct threat, reaffirm such student's qualified status as an individual with a disability and allow the student to return to the University's program.
- g. If the University determines, in accordance with Commitment 2e, that a student poses a direct threat to others, the University 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 University will not, however, condition the provision of a benefit or service upon a showing by a student that he has eliminated behaviors that are a manifestation of a disability, unless such behavior significantly contributed to the direct threat.

2. Within 75 days of signing this agreement, the University will submit the procedures referenced in Action Step 1 to OCR for OCR's review and approval.
3. Within 30 days of OCR's approval that the procedures meet the criteria outlined in Action Step 1(a) through 1(g), the University will adopt and implement the procedures and will provide all students, faculty, and staff with written notice regarding the new policies and procedures. The University, at a minimum, will make this notification through its website, electronic mail messages to employees and students, and any regularly issued newsletters (in print or online) as well as by any other additional means of notification that the University deems effective to ensure that the information is widely disseminated.
4. Within 45 days of OCR's approval of the University's procedures, the University will provide training on the new policies and procedures to its designated Section 504/Title II Coordinator and any College official(s) responsible for administering the College's direct threat policy and procedure regarding its proper implementation and administration, including Residence Life Directors, Residence Assistants, Student Affairs staff, and University Public Safety officers.

Reporting Requirement:

- a) Within 75 days of signing this agreement, the University will provide OCR with its developed or revised procedures, as described in Action Step 1, for OCR's review and approval.
- b) Within 60 days of OCR's approval of the University's procedures, the University will submit documentation to OCR demonstrating that it has implemented Action Steps 3 and 4 above, including copies of the written notices issued to students, faculty, and staff regarding the revised policies and procedures and a description of how the notices were distributed, copies of any changes to university handbooks, a link to its webpage where the revised policies and procedures are located, and a copy of the sign-in sheet and training materials for the training required under Action Step 4.

XX – Paragraphs Redacted – XX

The University understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the University understands that during the monitoring of the Agreement, if necessary, OCR may visit the recipient, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms and obligations of the Agreement. Upon the University's satisfaction of the commitments made under the Agreement, OCR will close the case.

The University understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or the applicable statute(s) and

regulation(s). Before initiating such proceedings, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the University's representative below.

By: /s/_____ Date: 3-26-19_____
President or Designee