

**Voluntary Resolution Agreement**  
**Temple University**  
**OCR # 03202244**

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Temple University (the University) enter into this Agreement to resolve the above-referenced complaint. 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 Title II of the Americans with Disabilities Act of 1990 (the ADA) and their implementing regulations, at 34 C.F.R Part 104 and 28 C.F.R. Part 35, which prohibit discrimination based on disability by recipients of Federal financial assistance and public entities, and specifically, the following provisions of the Section 504 and Title II regulations which were at issue in this complaint: 34 C.F.R. § 104.4; 34 C.F.R. § 104.43(a); 34 C.F.R. § 104.44(a); 28 C.F.R. § 35.130(a) and 28 C.F.R § 35.130(b)(7).

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

In entering into this Agreement, OCR acknowledges that it has not made a finding that the University failed to adhere to, abide by, or in any other way failed to observe the statutes and/or regulations that OCR enforces. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the University.

**Action Steps**

1. The University asserts that it has complied, and will continue to comply, with the requirements of Section 504, the ADA, and their implementing regulations and acknowledges to OCR that it recognizes its obligations under the following provisions of Section 504 and Title II of the ADA and specifically, that it complies with and will continue to comply with the following regulations at issue in this complaint:

34 C.F.R. § 104.43(a), providing that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability; 34 C.F.R. § 104.4, the general prohibition against discrimination on the basis of disability by recipients of federal financial assistance and 28 C.F.R. § 35.130(a), the general prohibition against discrimination on the basis of disability by public entities.

34 C.F.R. § 104.44(a), requiring a postsecondary institution to modify its academic requirements as 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. Academic requirements that the postsecondary institution can demonstrate are essential to the instruction/degree programs being pursued by a student with a disability or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of 34 C.F.R. § 104.44. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

28 C.F.R § 35.130(b)(7), providing that a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.

2. The University assures OCR that for all requests for a modification to its Law School's Class Attendance Policy (the Policy) received by or made on behalf of a student as an academic adjustment or modification to accommodate the student's disability(ies), it will adhere to the following processes and apply the following considerations in reviewing such requests and making any determinations regarding such requests, as follows:

The University's process of determining whether its class attendance requirement for its Law School program is an essential academic requirement for its Law School program shall include a deliberate decision that is made by a group of University and/or Law School personnel who are trained, knowledgeable, and experienced in the area and must be the result of a careful and thoughtful review of the Law School's program and its requirements. University and/or Law School personnel will consider the following factors in determining whether the technical standard for attendance is essential to the academic requirements for the University's Law School program: the nature and purpose of the Law School program; the relationship of the attendance standard to the functional elements of the Law School program; whether exceptions or alternatives to the Law School class attendance requirement/policy are permitted; whether the attendance standard is essential to a given vocation for which the Law School program is preparing students; and whether the attendance standard is required for licensure or certification in a related occupation or profession. For all such requests, the University will document all aspects of its decision-making process, including identifying each step which it followed to arrive at its determination, the conclusion it reached at each stage of this process, and the specific reasoning that it applied to support this decision.

3. The University will issue a memo to all relevant University and Law School personnel who are involved in making determinations regarding academic

adjustments for students with disabilities, including decisions regarding modifications of policies due to disability. Specifically, this memo will include the regulatory language provided in Action Step 1 and will affirm that the University complies with these regulations. This memo will also incorporate the language regarding the procedures for reviewing requests for modifications of the Policy and the applicable factors to be considering in making these determinations, as provided under Action Step 2, and will expressly state that the University follows this procedure and applies these considerations.

**Reporting Requirement:**

Within 90 days of signing this Agreement, the University will submit a copy of the memo that it issued to all relevant University and Law School personnel who are involved in making determinations regarding academic adjustments for students with disabilities, including decisions regarding modifications of policies due to disability, which includes the language specified under Action Steps 1 and 2 above. The University will submit documentation which shows that this memo has been sent to all relevant University and Law School personnel in order to establish that they have been notified of the procedure for reviewing such requests, and the applicable regulations that govern such requests. This documentation will also show the manner in which this memo was distributed, including proof that it was received.

The University 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 University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, 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 this Agreement. Upon the University's satisfaction of the commitments made under this Agreement, OCR will close the complaint.

The University understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution 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.

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

Michale Gebhardt  
Vice President and University Counsel

August 20, 2020 \_\_\_\_\_  
Date