

**Voluntary Resolution Agreement**  
**Allegheny College**  
**OCR Complaint Number 03212099**  
**Philadelphia Regional Office**

The U.S. Department of Education, Office for Civil Rights (OCR) and Allegheny College (the College) 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 College. The College 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.

Prior to the completion of OCR's investigation, the College 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 College agrees to take the following actions.

**Acknowledgement**

The College acknowledges its obligation under Section 504 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 College program or activity.

**Action Step A: Direct Threat to Others Policy Revisions<sup>1</sup>**

The College will develop or review and, if necessary, revise, its policies and procedures for direct threat assessment, as they relate to students with disabilities. The policy will be in accordance with the following guidelines:

1. The College 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.
2. Where the College has a reasonable basis for believing that a student poses a direct threat, and the risk of harm to others is not imminent (i.e., not a situation the College deems to be an emergency), 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:
  - a. The nature, timing, and severity of the risk;

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<sup>1</sup> This Agreement is not intended to address the College's policies and procedures for assessment of direct threat to self.

- b. The probability that the potential injury or significant harm will actually occur; and
- c. Whether reasonable modifications of the College’s policies, practices, or procedures will mitigate the risk.

In making the assessment, the College will confer with individuals who have in-depth knowledge of, and experience in, the disability. Pending the outcome of a formal assessment, the College 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).

3. If the College 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 College 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 their attendant privileges, benefits and services, as a student in the College’s academic program in the status of, and at the academic level attained by the student prior to the determination that the student was a direct threat.
4. The College will not require a student to provide a comprehensive mental health evaluation and/or similar documentation, except:
  - a. 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
  - b. As otherwise reasonably necessary for the College to comply with its obligations under Section 504.
5. If the College 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.
6. Following a determination that a student poses a direct threat to the safety of others, the College 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 College’s program.
7. If the College determines that 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 has eliminated behaviors that are a manifestation of a disability, unless such behavior significantly contributed to the direct threat.

#### Reporting Requirement

By October 1, 2023, the College will provide OCR with its developed or revised procedures for OCR's review and approval.

#### **Action Step B: Policy Implementation and Notice**

After OCR's approval of the procedures described in Action Step A, the College will:

1. Adopt and implement the procedures and will provide all students, faculty, and staff with written notice regarding the new policies and procedures. The College, 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 College deems effective to ensure that the information is widely disseminated.
2. Provide the Complainant with a copy of its revised procedures.

#### Reporting Requirement

Within sixty (60) days of OCR's approval of the College's procedures, the College will submit documentation to OCR demonstrating that it has implemented Action Step B, 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, a link to its webpage where the revised policies and procedures are located, and a copy of the communication provided to the Complainant.

#### **Action Step C: Policy Training**

After OCR's approval of the procedures described in Action Step A, the College will provide training on the new policies and procedures to its designated Section 504 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 and any staff who serve on the threat assessment team.

#### Reporting Requirement

Within sixty (60) days of OCR's approval of the College's procedures, the College will submit documentation to OCR demonstrating that it has implemented Action Step C, including a copy of the sign-in sheet and training materials.

### **Action Step D: Tracking of Direct Threat Assessments**

The College will develop or revise its procedure for documenting its actions related to direct threat assessments. The procedure should include steps to ensure the documentation and/or preservation of the following:

1. the events that precipitated the assessment;
2. internal correspondence related to the assessment;
3. all records of the threat assessment team or staff involved in the assessment process;
4. correspondence with the subject of the assessment;
5. any counselor/clinician reports or diagnoses, correspondence or dialogue with the student, witnesses, and/or other entities;
6. interim measures applied to the student;
7. interim restrictions (if any) and justification for same;
8. investigations conducted, including evidence gathered;
9. findings or determinations at each stage;
10. a complete explanation as to how the College arrived at its final determination;
11. any documents related to an appeal;
12. disciplinary sanctions; and
13. written notice of outcome provided to the student.

### **Reporting Requirements**

1. By October 1, 2023, the College will provide to OCR for review and approval the detailed description of its system for tracking and reviewing the records as described in Action Item D.
2. Within thirty (30) days of OCR's approval of the record keeping system, the College will implement the system and provide verification to OCR that the system has been implemented.

### **General Requirements**

By signing the resolution agreement, the College agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. During the monitoring of the resolution 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 the resolution agreement.

The College understands that OCR will not close the monitoring of the agreement until such time as OCR determines that the College is in compliance with the terms of the agreement and with Section 504 and its implementing regulations at 34 C.F.R. Part 104, which was at issue in this complaint.

