

Resolution Agreement Middle
Tennessee State University
Complaint # 04-12-2294

Middle Tennessee State University (University) agrees to resolve the allegation of discrimination on the basis of disability contained in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR). The University submits this Resolution Agreement (Agreement) to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

Threat to Others Assessment

1. By April 26, 2015, the University will reconvene the Office of Judicial Affairs (Discipline Committee) to assess whether the Complainant posed/poses a direct threat/risk to others at the time of his suspension from the University. This assessment will consider the nature, duration, severity, and probability of the risk based upon medical knowledge or the best available objective evidence relevant to the time frame during which the University determined that the complainant should be suspended as well as a determination as to whether reasonable modifications of the University's policies, practices, or procedures could sufficiently mitigate the risk posed by the Complainant. If the University concludes that the Complainant did not pose a direct threat/risk to others at the time of the suspension decision, or that any direct threat which existed at the time no longer exists, it will not further exclude the Complainant from participation in its programs or activities.

REPORTING REQUIREMENT: By May 12, 2015, the University shall provide OCR with documentation evidencing that the University assessed whether the Complainant posed a direct threat/risk to others at the time of the initial suspension decision. This documentation should include, but not be limited to: 1) a list of every individual, by name and title, who participated in the assessment, along with their roles in the assessment process; 2) copies of any meeting notes taken; and, 3) a detailed explanation of the outcome of the assessment. Following the receipt of this information, OCR will notify the University regarding whether the assessment is compliant with Section 504 and Title II. If the University determines that the Complainant did not pose, or no longer poses, a direct threat to others, it will provide documentation demonstrating that it is no longer excluding the Complainant from participation in its programs or activities and will inform him that he may seek reenrollment in the University.

Tuition and Books Reimbursement

2. By May 25, 2015, if the University concludes that the Complainant did not pose a direct threat to others during the hearing referenced above in Item #1, the University will refund to the Complainant all tuition, book costs, and any other costs or fees that the Complainant lost as a result of the initial suspension from the University.

REPORTING REQUIREMENT: By June 11, 2015, if applicable based on the outcome of Item #1, the University will provide OCR with evidence that it refunded the monies described in Item #2. The evidence shall include an itemization of all refunded monies as well as all communications with the Complainant discussing the amounts owed.

Involuntary Medical Withdrawal/Suspension Policy – Revision and Training

3. By April 11, 2015, the University will amend its Involuntary Medical Withdrawal/Suspension Policy (Policy) so that: a) in determining whether a student with a disability should be involuntarily withdrawn or suspended, the Discipline Committee shall consider the nature, duration, severity, and probability of the threat posed by a student with a disability, relying on the most current medical evidence or the best Available objective evidence, as well as determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the risk; b) absent exigent circumstances creating an imminent risk of harm, the assessment will be made prior to a decision to involuntarily withdraw a student based on the threat he or she poses to others; and, c) if exigent circumstances warrant the immediate removal of a student with a disability from the University, the student will receive: i) at a minimum, notice and an initial opportunity to present evidence before, or immediately after, being placed on involuntary withdrawal, and ii) full due process within 30 days of the determination to place a student with a disability on involuntary withdrawal or suspension.

REPORTING REQUIREMENT: By April 27, 2015, the University shall submit a draft of the amended Policy to OCR for review and approval.

4. By June 11, 2015 or within 30 days of notice that OCR has approved the amended Policy, whichever is later, the University will: a) adopt, implement and disseminate the approved Policy to its current and subsequent new members of the Discipline Committee and b) initiate annual training of Discipline Committee members concerning the Policy and concerning Section 504 and Title II standards related to involuntary removal of students with disabilities on the basis that they pose a threat to others. All subsequent new members of the Discipline Committee will be provided the training described in this item prior to participation in a determination concerning the involuntary withdrawal or suspension of a student with a disability.

REPORTING REQUIREMENT: By June 26, 2015, the University shall submit to OCR documentation demonstrating that it has adopted, implemented and disseminated the approved Policy and initiated training in accordance with this item. The documentation concerning the required training will include: a list, by name and title, of all individuals who are members of the Discipline Committee; a list by name and title of all individuals who attended the training; copies of the materials provided to attendees; and the name, title, and qualifications of the individual(s) who conducted the training or in the event of electronic training, provided the training content

