

**Resolution Agreement
Miami Dade College
OCR Docket Number # 04-15-2392**

Miami Dade College (College) submits to the U.S. Department of Education, Office for Civil Rights (OCR), this Resolution Agreement (Agreement) to resolve the above referenced complaint and to ensure compliance with 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), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Accordingly, the College voluntarily agrees to take the following actions.

The College agrees to take the following steps to ensure compliance with Section 504 and Title II.

Disability Discrimination Procedures and Training:

Action Item 1

By March 7, 2016, the College will review and revise, its policies and procedures, including Procedure 4055, for direct threat assessment, as they relate to students with disabilities, to be consistent with the following:

- a. 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 (i.e., a high probability of substantial harm to the health and safety of others).
- b. Where the College 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, duration, probability, and severity of the risk; and 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 area of the student's 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).
- c. 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 his/her 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 he/she was a direct threat.

- d. The College 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 College to comply with its obligations under Section 504 and Title II.
- e. 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.
- f. 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.
- g. If the College determines, in accordance with Commitment 1e, 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.
- h. The College will eliminate from the policy the consideration of direct threat at the pre-admission stage of an application for admission.

Reporting Requirement: By April 11, 2016, the College will provide to OCR a copy of its written policy relating to direct threat assessment, for OCR's review and approval. Within 60 days after receipt of OCR's approval of the College's direct threat policies and procedures, the College will disseminate a copy of the policy/procedures to all College faculty, staff and students and will revise, if necessary, any printed and electronic publications containing the policy/procedures. The College will provide OCR with documentation evidencing this notice within thirty days of the dissemination of the notice.

Action Item 2

By September 5, 2016, the College will provide training on its approved direct threat policies and procedures to all College personnel who are involved in determining whether a student poses a direct threat to the health and safety of others.

Reporting Requirement: By September 5, 2016, the College will provide documentation that it provided training on its approved direct threat policies and procedures to relevant College personnel, including the date of the training, name and qualifications of the individual(s) who conducted training, attendance sheet, by name and title, and copies of materials presented.

STUDENT-FOCUSED REMEDIES:

Action Item 3

By March 7, 2016, the College will notify the Complainant that it is rescinding the decision to dismiss him from the program and suspending him pending a review under the approved direct threat policies and procedures to make a determination as to whether the Complainant's poses a direct threat that cannot be mitigated with reasonable accommodations.

Reporting Requirement: By May 1, 2016, the College will provide OCR with documentation showing that it completed the direct threat assessment of the Complainant, in accordance with Action Item 1.

Action Item 4

By February 1, 2016, the College will send a certified written letter referring the Complainant to the OEOP and offering to investigate his complaint of gay discrimination in June 2015 upon his completion of the Complaint Discrimination Form.

Reporting Requirement: By March 1, 2016, the College will submit a copy of its letter to the Student, in accordance with Action Item 4.

The College 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 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 complied with the terms of this Agreement and the provisions of Section 504, and Title II, 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/Designee
Miami Dade College

____January 11, 2016_____
Date