

**Resolution Agreement  
South College  
OCR Complaint #04-16-2167**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against South College (College) pursuant to 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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the College is subject to the provisions of Section 504. Prior to the completion of OCR's investigation, the College asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Section 504 and to resolve the issues of this investigation, the College voluntarily agrees to take the following actions:

**Process for Requesting Academic Adjustments, Auxiliary Aids and Other Benefits or Services**

1. The College will revise, for OCR's review and approval, its process for ensuring timely and effective academic adjustments, auxiliary aids and other benefits or services needed to provide students with disabilities an equal opportunity to participate in its programs and activities. The policy and procedures will include, at a minimum:
  - a. All decisions to grant or deny requested auxiliary aids, adjustments or services will be provided to students in writing, and for denials, such notice will explain the reason(s) for the denial and procedures for appealing such decisions.
  - b. Written documentation to instructors outlining approved auxiliary aids, academic adjustments or services.
  - c. Prompt timeframes to approve requested aids and services as well as to resolve disputes or appeals regarding requests for disability-related aids, adjustments or services.
  - d. Prior to denial of any auxiliary aids, academic adjustments, or other aids or services, consideration of any recommended reasonable modification or adjustment that would enable the student to have an equal opportunity to benefit from the College's academic programs and activities for which the modification or adjustment is requested. The process will take into consideration such factors as: (a) the extent of the student's disability; (b) the student's prior use of auxiliary aids; (c) the nature and complexity of program content and the modes through which course content is presented; and (d) whether the requested adjustment, aid or service would effectively accommodate the student's disability in the context for which it is requested.
  - e. Revision of the *Services for Students with Disabilities* sections of the Student Handbook and Academic Catalog to include: (1) definition of a disability as referenced in the regulation implementing Section 504; (2) a commitment to work collaboratively with students to determine accommodations necessary to ensure students with disabilities are not subjected to discrimination and; (3) reasonable response times for students to receive

approval or denial of requested services for each quarter; and (4) student rights to appeal decisions related to disability services.

**REPORTING REQUIREMENT:** By February 15, 2017, the College will provide OCR with a copy of its proposed procedures, for providing academic adjustments and auxiliary aids and services to students with disabilities, consistent with this Agreement, for OCR's review, comment and approval. Within 45 days of OCR's written approval of its revised policy and procedures, the College will: (a) provide a link and print-out the pertinent page from its website showing the corrections required in Action Step 1 above; and (b) adopt, publish, and begin implementation of the revised policy and procedures.

### **Non-Discrimination Policies and Procedures**

2. The College will revise its nondiscrimination policies to include the prohibition of discrimination based on disability and provide the name/title and contact information for the designated employee to oversee compliance with Section 504, as required by 34 C.F.R. §104.7(a).

**REPORTING REQUIREMENT:** By February 15, 2017, the College will provide OCR with a copy of its proposed nondiscrimination policy consistent with this Agreement, for OCR's review, comment and approval. Within 45 days of OCR's written approval of its revised nondiscrimination policy, the College will adopt, publish, and begin implementation of the revised policy and procedures.

### **Section 504 Grievance Procedures**

3. The College will draft revised Section 504 grievance procedures as required by 34 C.F.R. §104.7(b), which will provide for the prompt and equitable resolution of complaints of discrimination on the basis of disability. The College's revised grievance procedures will include, but not be limited to, the following components:
  - a) Notice of the Grievance Procedures and instructions regarding how and where to file a complaint, including but not limited to, name/title and contact information for the employee(s) designated to oversee compliance with Section 504, in accordance with this Agreement at Action Step 2 above;
  - b) A provision for an alternate official to accept complaints where the complaint is against the person who normally receives them;
  - c) Reasonably prompt timeframes for each stage of the investigation and appeal;
  - d) Assurance that the investigation will be conducted in an impartial manner, including an impartial decision maker, the right of the parties to present witnesses and other evidence relevant to the complaint;
  - e) Written notice to the parties of the outcome of the complaint, and the basis for the decision;

- f) An opportunity for the parties to appeal the findings.

REPORTING REQUIREMENT: (a) By February 15, 2017, the College will provide OCR with a copy of its proposed Section 504 Grievance Procedures consistent with this Agreement, for OCR's review, comment and approval; and (b) within 45 days of OCR's written approval of its revised Section 504 grievance procedures, the College will adopt, publish, and begin implementation of the revised procedures.

#### **Dissemination of Revised Policies and Procedures**

- 4. The College will implement, publish and disseminate the revised procedures and notice in accordance with this Agreement for Action Steps #1-#3. The College will: (a) review and, as necessary, update its student handbook and website to ensure that these sources of student information clearly state the College's new grievance procedures; (b) include the name or title, position, address, and phone number of the person designated to coordinate compliance efforts, as required under Action Steps #2-#3 above; and (c) update its student handbook and website to include the revised procedures for requesting and receiving auxiliary aids and services, as required under Action Step 1 above. The College can use an insert that includes a copy of the procedures and information required in Action Steps #1-#3 above, pending the reprinting of any publications.

REPORTING REQUIREMENT: By February 15, 2017, or within 30 days of receiving OCR's approval of the procedures and notice revised in accordance with this Agreement for Action Steps #1-#3 above, whichever is later, the College will provide OCR with copies of one or more relevant student publications in which the College's revised policies and procedures have been published, as well as any references to links on its website where this information appears to indicate the College's compliance in accordance with Action Step #4.

#### **Staff Training**

- 5. The College will make all faculty, administrators and staff within the Academic Support & Student Services Department, involved in decisions concerning requests for academic adjustments, auxiliary aids and other aids or services, as well as the appointed Section 504 Coordinator designated per this Agreement, available at the College's facility for mandatory training by OCR staff regarding the requirements of Section 504, specifically relating to academic adjustments, auxiliary aids and other requested aids or services. The training will address, at a minimum:
  - a) The College's obligation under Section 504 to (a) provide appropriate academic adjustments, auxiliary aids and other aids and services where necessary to ensure that hearing impaired participants have access to communications that are as effective as those provided to others; (b) ensure an equal opportunity for individuals with disabilities to participate in the College's programs and services; and (c) apply the appropriate legal standard under which academic adjustments, auxiliary aids and other aids and services are to be determined necessary and effective under Section 504.

**REPORTING REQUIREMENT:** By February 15, 2017 or within 30 days of the training being conducted by OCR staff, whichever is later, the College will provide a report confirming the completion of the required training under Item #5 above. The documentation shall include: (1) the date of the training session, and (2) a list of names and titles of employees who participated in the training session.

### **Specific Complainant Remedy**

6. The College will provide the Complainant pro-rated tuition reimbursement for any days she did not receive interpreter services for classes during winter and spring 2015 quarters, specifically during the time period from January 15, 2015– January 26, 2015 and April 6, 2015 – May 3, 2015. The College will also provide a letter further notifying the Complainant that if she re-enrolls at the College, she will be provided appropriate academic adjustments, auxiliary aids and services, including a certified interpreter for all classes where she requests an interpreter within required timeframes. The letter will direct the Complainant to submit a letter to the College providing notice of her intentions concerning re-enrollment postmarked by January 15, 2017. Additionally:
  - a) If the Complainant requests interpreter services for other programs or activities, and such services are needed to provide the Complainant an equal opportunity to participate in the programs or activities, the College will provide the requested services.
  - b) If the Complainant requests aids or services other than interpreter services in accordance with the College’s revised process, the College will review that request based upon the process revised in accordance with Action Step #1 and make such determination within two weeks of the Complainant’s request and/or prior to the start of the course or activity for which the aid or service is requested.
  - c) If the College concludes, based on a process that complies with Section 504 as described under Action Step #1 above, that the Complainant needs requested aids or services, timely action will be taken to ensure that they are provided for each class or part of a class that they are needed and all extracurricular activities for which they have been requested; or
  - d) If the College determines that the requested aids or services should not be provided for any course or aspect of the course or any extracurricular activity, the College should timely identify and provide effective alternative auxiliary aids or services (e.g., CART writer, note-takers, making orally delivered materials available in printed format, etc.) that will allow the Complainant to participate effectively in its educational program. In such situations, the College should ensure that it has a sufficient basis for providing alternative aids and services, including documentation in support of its decision that interpreter services are not necessary.

REPORTING REQUIREMENTS: By February 15, 2017, the College will provide OCR with:

- (a) A copy of its letter sent to the Complainant by certified mail and postmarked no later than January 6, 2017, in accordance with Action Step #6 above;
- (b) Documentation demonstrating disbursement of the pro-rated tuition reimbursement covering the above-referenced dates; and
- (c) Written confirmation of actions taken to fulfill Action Step #6 if the Complainant responds by January 15, 2017 and elects to re-enroll at the College (e.g. proof of the approved academic adjustments and auxiliary aids and services that were provided). If the Complainant does not respond to the College's offer to re-enroll by January 15, 2017, the College will notify OCR and no further reporting will be required under Action Steps #6a-d.

The College understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the terms of this Agreement. Further, the College understands that during the monitoring of this Agreement, if necessary, and with reasonable notice, 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 this Agreement. The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §104.44 which was at issue in this case.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceeding 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.

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

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**President or Designee**

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**Date**