

Resolution Agreement

Tallahassee Community College
OCR Docket No. 04-16-2248

The U.S. Department of Education, Office for Civil Rights (OCR), and Tallahassee Community College (College) enter into this Agreement to resolve the allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the College. The College assures OCR that it will take the following actions in compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation, 34 C.F.R. Part 104; and Title II of the Americans with Disabilities Act (Title II), 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulations, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

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

SECTION 504/TITLE II DISCRIMINATION/HARASSMENT POLICIES AND GRIEVANCE PROCEDURES

1. By February 1, 2018, the College will revise, for OCR's review and approval, its discrimination/harassment policy and procedure titled *Equal Access/Equal Opportunity, Discrimination, Sexual Misconduct, and Unlawful Harassment* (03-01 AP). The policy will include the following:
 - A. notice to students and employees of the grievance procedures, including where complaints may be filed, in a manner that is easily understood, easily located, and widely distributed;
 - B. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination or harassment carried out by employees, other student, or third parties;
 - C. provision for adequate, reliable and impartial investigation of complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
 - D. designated and reasonably prompt time frames for the major stages of the complaint process, as well as delineation of the process for extending timelines;
 - E. written notice to the complainant and alleged perpetrator of the outcome of the complaint;

- F. assurance that the school will take steps to prevent recurrence of any discrimination or harassment and remedy discriminatory effects on the person filing the grievance and others, if appropriate; and
- G. prohibition of retaliation against any person who reports alleged discrimination or harassment.

REPORTING REQUIREMENT: Within 60 days of OCR's written approval of the policy and procedures, the College will adopt, publish and begin implementation of the revised policy, and will also provide OCR with evidence of publication.

STATEMENT REGARDING HARASSMENT

- 2. By February 1, 2018, the College will submit to OCR for review and approval, a statement to be issued by the President to the College community, including students, employees, and third parties associated with the College, which will be published, including on the College's website, stating that College policy prohibits disability discrimination, including disability-based harassment. The statement will encourage any student, employee or third party who believes he or she has been subjected to disability-based harassment to report the incident(s) to the College, and note the College's commitment to conducting a prompt and equitable investigation and immediately and appropriately addressing any violation of the College's policies. The statement will inform College community members of how to report allegations of disability harassment; will explain the role of the Section 504 Coordinator(s); will provide contact information for the Section 504 Coordinator(s); and will discuss the interim measures and protections against retaliation and harassment available to individuals reporting such incidents. The statement will inform all members of the College's community of the College's responsibility to take prompt and effective steps to end the disability-based harassment; eliminate the hostile environment; prevent its recurrence; and, as appropriate, remedy its effects. The statement will explain that the College will complete investigations in a prompt and equitable manner; and that, after the completion of the investigation, students and employees found to have engaged in acts of disability-based harassment will be promptly disciplined.

REPORTING REQUIREMENT: Within 60 days of receiving OCR's written approval of the statement, the College will provide OCR with evidence that the statement was published, either through a web link to pages on the College's website and/or in the College's student/employee handbook(s) or other materials.

CLIMATE SURVEY

- 3. By June 30, 2018, the College will conduct a climate survey of students and employees of the College to assess the effectiveness of steps taken pursuant to this Resolution Agreement or otherwise by the College to achieve its goal of a College free of harassment based on disability. Students' participation in the survey will be voluntary.

REPORTING REQUIREMENT: By October 28, 2018, the College will provide OCR with documentation demonstrating implementation of the survey, including a description of how the survey was completed, copies of any responses to surveys, summaries of other information obtained, and proposed actions, if appropriate, the College plans to take in response to the information gathered from the survey.

TRAINING

4. By March 31, 2018, the College will train all staff charged with investigating and/or implementing the grievance procedures revised pursuant to Provision 1 of this Agreement, as well as the Section 504/Title II legal standards prohibiting harassment on the basis of disability. The training will include examples of the types of conduct (e.g., physical, verbal, graphic, or written) which may create a hostile environment based on disability, cover the College's obligation to eliminate a hostile environment of which it has notice, including constructive notice based upon involvement of an employee in creating the hostile environment; and the obligation of faculty and staff to report any incidents of harassment under the listed statutes to appropriate administrators. Training of administrators, faculty and staff will also provide instruction on how to recognize, prevent and respond appropriately to such harassment, and will also reiterate the College's obligation not to engage in retaliation against any individual for engaging in a protected activity that includes alleging discrimination.

REPORTING REQUIREMENT: By April 30, 2018, the College will provide OCR evidence that the training was provided, which will include a description of the expertise of the person(s) conducting the training, training materials and any agenda(s), and a sign-in sheet with the date(s) of attendance, and the names and titles of the attendees evidencing their attendance.

INDIVIDUAL REMEDY

5. By March 31, 2018, the College will submit a letter of offer to the Complainant for the provision of counseling not to exceed one session per month for one year. The College may utilize its staff for the provision of such counseling services, if accepted by the Complainant.

REPORTING REQUIREMENT: By April 30, 2018, the College will provide OCR evidence that the offer was made to the Complainant, and will include any response to the offer from the Complainant.

The College understands that by signing this Agreement, it agrees to provide the foregoing 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, 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 this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §

104.4, and Title II at 28 C.F.R. § 35.130. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

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

President or Designee

Date

Printed Name and Title