

Resolution Agreement # 05-14-2441
Capella University

Capella University (University) denies the allegations in Department of Education Office for Civil Rights (“OCR”) matter number #05-14-2441 (“Complaint”) and further denies any wrongdoing or unlawful behavior related to the same. Nonetheless, Capella University voluntarily enters into this Resolution Agreement (Agreement) to efficiently resolve the Complaint and ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d et seq., and its implementing regulation, 34 C.F.R. Part 100, with respect to the allegations raised in the complaint. Section 504 prohibits discrimination and retaliation based on disability by recipients of Federal financial assistance and Title VI prohibits discrimination and retaliation based on race, color and national origin by recipients of Federal financial assistance.

Review of University Policies, Practices, and Procedures

Revised Nondiscrimination and Harassment Policies

1. By **March 14, 2015**, the University will review and revise, as necessary, its nondiscrimination and harassment policies, practices, and procedures (hereafter nondiscrimination policies and procedures) to ensure they adequately address and provide the University sufficient options for responding promptly and appropriately to incidents of discrimination and harassment, and retaliation for engaging in protected activities at fieldwork practicums and internship sites. At a minimum, the revised nondiscrimination policies and procedures, will provide the following:
 - a. a statement setting forth the University’s commitment to maintaining an environment free from all discrimination and harassment on the basis of race and disability, and retaliation for engaging in protected activities. The statement will explain that the University prohibits race and disability harassment and retaliation in the University environment, including all University approved fieldwork practicum and internship sites, encourage students to immediately report incidents of discrimination, harassment, and retaliation, and emphasize that staff are required to promptly report incidents of discrimination, harassment and retaliation for engaging in protected activities, and specify that the University will investigate all complaints of discrimination, harassment and retaliation for engaging in protected activities. Nothing in this section prohibits the policy from allowing for an initial resolution process for informal resolution short of full formal investigation so long as: (i) the student retains the right to reject the initial resolution process in favor of investigation; and (ii) the initial resolution process shall not be applied to any allegations involving sexual assault, dating violence, domestic violence, or stalking;
 - b. examples of the type of conduct and behavior that is covered by the nondiscrimination policies and procedures;
 - c. identification of University approved fieldwork practicums and internships as sites where prohibited conduct may occur;

- d. an explanation of how to report discrimination, harassment and retaliation for engaging in protected activities and/or file a complaint;
- e. a description of the University's formal complaint procedures, including a Complaint Form, timeframes for the University's investigation of a complaint, and a requirement that written notice of the outcome be provided to both parties for all complaints;
- f. the name or title and contact information (including office address, e-mail address, and telephone number) for the University employee(s) responsible for receiving the Complaint Form and/or investigating reports of harassment;
- g. a requirement that the designated University employee(s) document all reports of incidents of discrimination, harassment and retaliation for engaging in protected activities and that the University establish a protocol for recordkeeping;
- h. a requirement that upon receiving notice of possible harassment, discrimination or retaliation in any University disciplinary proceeding, the University will refer such allegations to the Learner Affairs for consultation and possible investigation prior to making a final determination;
- i. prohibition of retaliation against persons who report harassment and/or discrimination or participate in related proceedings, and a statement that any individual found to have engaged in discrimination, harassment or retaliation will be subject to disciplinary action;
- j. a statement that the University will take steps to remedy the effects of the harassment and/or discrimination or retaliation found to have occurred, which may include in certain circumstances, at the investigator or investigating panel's discretion, offering counseling and other appropriate services to any person found to have been subjected to such harassment, discrimination or retaliation;
- k. identification of means the University will use to investigate incidents of discrimination, harassment and retaliation for engaging in protected activities, including but not limited to the following:
 - i. the steps the University will take to conduct adequate, reliable, and impartial investigations of reported incidents;
 - ii. an assurance that the University will take action to stop the harassment, remedy the harassment, and prevent recurrence; and
 - iii. a statement that the University uses a preponderance of the evidence standard (*i.e.*, it is more likely than not that harassment occurred) to resolve complaints of harassment or discrimination based on race, color, national origin and disability.

REPORTING REQUIREMENT: By **March 14, 2015**, the University will submit to OCR for review and approval its revised nondiscrimination policies and procedures referenced in item #1.

Publication

2. Upon receipt of OCR's approval of the revised nondiscrimination policies and procedures referenced in item #1, the University will publish and widely disseminate the revised

determines the Complainant was subjected to harassment and/or retaliation at the practicum site, the University will develop a plan to provide the Complainant with the appropriate remedies to redress the effects of the harassment and/or discrimination or retaliation, which may include, at the investigator or investigating panel's discretion, offering counseling and other appropriate services and possible reinstatement to the program with a completion date not to exceed July 10, 2015, or a time agreed upon with the Complainant. OCR acknowledges that in the event of such reinstatement, Complainant's ability to engage with a new internship site by the quarter beginning July 2015 would be contingent upon Complainant locating a new site meeting the Complainant's and University's approval through its standard processes.

REPORTING REQUIREMENT: By **May 8, 2015**, the University will provide OCR with documentation demonstrating implementation of item #4, including but not limited to a written statement of findings issued as a result of the investigation into the circumstances surrounding the Complainant's internship at the Salvation Army Adult Rehabilitation, New Beginnings Counseling Center in Denver Colorado between January 6, 2014 and January 26, 2014. If not included in the written statement of findings, a narrative description of any remedial action taken with regard to the Salvation Army Adult Rehabilitation, New Beginnings Counseling Center as a University approved fieldwork practicum site, as well as the plan to provide the Complainant with appropriate remedies, compensatory and/or remedial services. OCR will review the documentation submitted to ensure that the University met the requirements of the applicable regulations implementing Section 504, and Title VI. If appropriate, by July 15, 2015 (or within two weeks of the completion of the provision of services if a later time is agreed upon), the University will provide to OCR documentation of the remedies, compensatory and/or remedial services that were provided.

The University 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 University understands that during the monitoring of this agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. Part 100 and Section 504, at 34 C.F.R. Part 104, which were at issue in this case.

The University understands that OCR will not close the monitoring of this agreement until OCR determines that the University has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. Part 100 and Section 504, at 34 C.F.R. Part 104, which were at issue in this case.

The University understands and acknowledges that OCR may initiate administrative enforcement, 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 District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

For the University

Date