

Houston Community Central College
OCR Complaint No. 06132354
Voluntary Resolution Agreement

The Houston Community Central College (HCCC) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Southern Region. By this Agreement, the HCCC commits to the following actions to ensure that it has achieved compliance, consistent with its obligation to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, (amended 1992), and its implementing regulation at 34 C.F.R. Part 104 (2013); 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 (2013) which prohibit discrimination on the basis of disability.

The HCCC understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104 and Title II and its implementing regulation at 28 C.F.R. Part 35.

The HCCC 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 HCCC understands that during the monitoring of this agreement, if necessary, OCR may visit the district, interview staff and contract staff, students, or others and request such additional reports or data as are necessary for OCR to determine whether the district has fulfilled the terms of this agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104 and Title II and its implementing regulation at 28 C.F.R. Part 35, which are at issue in this case.

The HCCC 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 HCCC written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

HCCC Personnel Training:

Action Item #1

- I. The HCCC will provide all members of the faculty and staff of the Office of Institutional Equity and any other persons involved in the investigation of disability discrimination, specialized training by an independent party knowledgeable to instruct post-secondary officials regarding their legal obligations and responsibilities regarding Section 504 and Title II complaints, disability grievance procedures and processes.
- II. The HCCC will provide Professor XXXXX XXXXX, hereinafter referred to as “the professor”, specialized training by an independent party knowledgeable to instructed post-secondary officials regarding their legal obligations and responsibilities

regarding Section 504 and Title II to emphasis sensitivity training and training regarding the HCCC’s legal obligations to provide academic adjustments and auxiliary aids and services to students with disabilities.

Reporting Requirements for Action Item #1:

- A) By June 16, 2014, the HCCC will provide OCR with documentation demonstrating that it has timely completed Action Item #1 (I) above. Specifically, the HCCC will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Section 504 and Title II, the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

- B) By June 23, 2014, the HCCC will provide OCR with documentation demonstrating that it has timely completed Action Item #1(II) above. Specifically, the HCCC will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Section 504 and Title II, the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

Section 504 and Title II Policies, Procedures and Dissemination:

Action Item #2:

- I. The HCCC will issue an anti-disability discrimination statement to all professors, faculty, and staff that will also be posted in prominent locations at the HCCC, and published the statement on the HCCC website. The statement will advise that the HCCC does not tolerate acts of disability discrimination and of its policy to provide academic adjustments and auxiliary aids and services to students with disabilities. The statement will:
 - i. encourage any student in the HCCC who believes that he or she has been subjected to discrimination based on disability to report the discrimination to the appropriate HCCC official;
 - ii. note the HCCC’s commitment to conduct a prompt investigations of all allegations of disability discrimination;
 - iii. include appropriate contact information for the HCCC’s Compliance Officer(s), to whom students may report allegations of disability discrimination, or any other conduct or discrimination prohibited by Section 504 or Title II;
 - iv. advise that students, administrators, staff and/or contract staff found to have engaged in acts of discrimination based on disability or any other

conduct or discrimination prohibited by Section 504 or Title II will be promptly disciplined, to include, if circumstances warrant, up to and including suspension or expulsion for students and suspension or termination of employment for staff; and,

- v. encourage students and HCCC staff to work together to prevent acts of discrimination of any kind.

II. The HCCC will evaluate and develop and/or modify its policies and procedures with regard to investigating disability discrimination, or any conduct/concerns prohibited by Section 504 or any Title II to ensure it provides for an immediate respond to complaints received, and for the maintenance of documents generated by the investigation of all complaints received regarding Section 504 and Title II. The evaluation will determine the processes necessary to ensure that the HCCC take all steps reasonably designed to ensure that students enrolled in the HCCC, are not subjected to disability discrimination or other discrimination prohibited by Section 504 and Title II, and to respond promptly and appropriately to all allegations of discrimination based on disability. To this end, the HCCC will promptly investigate all incidents of alleged disability discrimination of students enrolled in the HCCC that are known or that should reasonably be known to the HCCC and will take appropriate action to respond to complaints, which may include disciplinary action against students, staff or contract staff found to have violated HCCC policy. The HCCC will take prompt and effective responsive action reasonably designed to end disability discrimination, prevent its recurrence, and, where appropriate, take steps to remedy the effects of disability discrimination and any other conduct prohibited by Section 504 and Title II on affected students. The Section 504 and Title II complaint guidelines must, at a minimum, include disability grievance procedures that provides the following:

- i. notice to students and employees of the procedure, including where complaints may be filed, that is easily understood, easily located and widely distributed;
- ii. application of the procedures to complaints alleging discrimination carried out by employees, other students, and third parties;
- iii. adequate, reliable and impartial investigation, including an equal opportunity to present witnesses and relevant evidence;
- iv. designated and reasonably prompt timeframes for major stages of the grievance process, as well as the process for extending timelines;
- v. if the procedures state the standard for review, the procedures must state that the preponderance of the evidence standard will be used for investigating allegations of disability discrimination, and any other conduct prohibited by Section 504 and Title II;
- vi. must provide for policies and procedures to protect affected students against retaliatory harassment;

- vii. interim measures to protect the complainant as necessary including interim steps before the final outcome of the recipient's investigation necessary to prevent further discrimination of the allegedly affected student, as well as measures to avoid retaliation against the reporting student, pending the resolution of the complaint (e.g., no contact order, counseling, health and mental services, escort services, academic support, retake a course or withdraw without penalty);
- viii. a process for the allegedly affected student, if the student wishes, to identify the allegedly discriminating student(s) and/or witnesses and provide other information in a manner that protects the allegedly affected student's confidentiality;
- ix. if the procedures allow the parties access to information used at a hearing, the procedures must provide similar and timely access to both parties;
- x. if the procedures allow for an appeal of the findings and/or remedy, the procedures must provide an equal opportunity to appeal for both parties;
- xi. the procedures should include an adequate definition of disability discrimination, including conduct prohibited by Section 504 and Title II, with examples;
- xii. the procedure should not require the complainant to work out an issue directly with the accused;
- xiii. if the procedures include an informal process, the procedures should notify the parties of the right to end the informal process and begin a formal process at any time;
- xiv. not allow conflicts of interest (real or perceived) by those handling the procedures;
- xv. a statement regarding remedial action(s) necessary to address and resolve incident(s) of discrimination, including, as appropriate, provision of resources, including counseling, to the alleged person discriminating as a means to prevent recurrence of future discrimination, discipline, strategies to protect the individual(s) alleged to be discriminated against and witnesses from retaliation, counseling for the individual(s) alleged to be discriminated, witnesses and the broader student body, and any other necessary steps reasonably calculated to prevent future occurrences of discrimination, including but not limited to terminating contractual obligations of the alleged person discriminating or disciplinary sanctions against students;
- xvi. maintaining on-going contact with and providing updates to the individual alleged to be discriminated against throughout the investigation;
- xvii. efforts to identify the alleged discrimination and/or witnesses if the targeted student is unaware of their identities or names (e.g., interviewing other students, staff and/or contract staff who were present during the alleged incident(s));

- xviii. interviewing all relevant students, administrators, staff and/or contract staff witnesses, not limited to the accused, reviewing all relevant documents and maintaining records of this process;
 - xix. assessing whether other students, including witnesses, were negatively impacted by the alleged discriminating behavior, and consideration of whether remedial actions are also appropriate for those students;
 - xx. documentation of all investigative steps, including statements provided by the allegedly affected student(s), and any other witnesses or reporting parties, the evidence reviewed, any remedial actions taken, and a copy of the letter of finding/report issued at the conclusion of the investigation;
 - xxi. a final written report describing the steps taken in the investigation and the facts gathered, witness statements, clearly stating whether or not sex discrimination was found, and explaining the basis for the HCCC's conclusion, including application of the appropriate legal standard of a preponderance of the evidence;
 - xxii. written notification to the allegedly affected student explaining how the HCCC's investigative process was conducted, its factual findings and support for those findings, the HCCC's policies applied, its determination as to whether disability discrimination occurred, the reasons for the decision, and the appeal procedures;
 - xxiii. contacting the individual allegedly affected within a reasonable period of time following the conclusion of the investigation to assess whether there has been on-going discrimination or retaliation, and to determine whether additional supportive measures are needed;
 - xxiv. ensuring that the HCCC's investigation of all complaints regarding disability discrimination, and any other conduct prohibited by Section 504 and Title II will be conducted by individuals with knowledge of the appropriate legal standards under Section 504 and Title II and the relevant HCCC policies and complaint procedures. The investigator(s) will also be trained in how to recognize and remedy such discrimination, and confidentiality requirements. The HCCC will ensure that the HCCC's Compliance Officer is included as a member of the investigative team during all aspects of disability discrimination and any other conduct prohibited by Section 504 and Title II. The HCCC will develop and/or modify written investigation guidelines or practices for inclusion in the HCCC Student Handbook, Disability Grievance Policy and on the HCCC's website.
- III. The HCCC will provide written notice of the revised investigation guidelines to all HCCC's faculty, staff, professors, teachers and administrators involved in the Section 504 and Title II disability grievance process;
- IV. The HCCC will provide written notice of the revised Section 504 and Title II investigation guidelines to all students by posting the new guidance on the HCCC's website. Beginning in the 2014-2015 school year, the HCCC will include the revised investigation guidelines in the Student Handbook, Disability Grievance Policy, and post

the guidelines in the Office of Institutional Equity, the Ability Services Office and in prominent locations and buildings on campus; and

- V. The HCCC will provide OCR a report of all verbal and written complaints of Section 504 and Title II disability discrimination filed by any person against the HCCC or any of its employees, students, or a third party acting on HCCC property or at a HCCC-sponsored event, for the 2014-2015 school year. The report will identify the complainant(s), the date(s) of the discriminatory conduct, the alleged discriminatory conduct/issue, the person(s) alleged to be responsible for the discriminatory conduct/issue, documentation of all aspects and evidence gathered during the investigation conducted, policies relied on and the HCCC's response to the complaint and any other pertinent facts of each complaint.

Reporting Requirements for Action Item #2:

- A) By April 4, 2014, the HCCC will provide OCR with a copy of the Anti-Discrimination Statement, listed in Action Item #2(I) above, and verification that the statement was disseminated to all students, staff, contract staff and interest parties at the HCCC campus, the prominent locations on campus the Anti-Discrimination Statement was posted, and the location where the statement is found in the Student Handbook, Disability Grievance Policy and on the HCCC's website.
- B) By August 15, 2014, the HCCC will provide OCR with draft revised investigative guidelines for disability grievances procedures and processes regarding Section 504 and Title II complaints, as required in Action Item #2(II) above for review and approval.
- C) Within seven calendar days (or other mutually agreed date), after OCR's review and approval, the HCCC will provide documentation that it has provided written notice of the revised investigation guidelines of disability grievance procedures and processes to all HCCC's faculty, staff, professors, teachers and administrators involved in the Section 504 and Title II disability grievance process faculty, staff, professors, teachers and administrators involved in the Section 504 and Title II disability grievance process. It will also verify to OCR that it has published, and posted the adopted guidelines of the disability grievance procedures and processes on its website, in accordance with Action Item #2(III) above.
- D) By August 30, 2014, the HCCC will verify to OCR that it provided written notice of the revised Section 504 and Title II investigative guidelines to all students by posting the new guidance on the HCCC's website. Beginning in the 2014-2015 school year, the HCCC will include the revised investigation guidelines in the Student Handbook, Disability Grievance Policy, the Office of institutional Equity, Ability Services Office and in prominent locations and buildings on campus, in accordance with Section 2(IV) above.
- E) By July 15, 2015, the HCCC will provide OCR a report of all verbal and written complaints of Section 504 and Title II disability discrimination filed by any person against the HCCC or any of its employees, students, or a third party acting on HCCC

property or at a HCCC-sponsored event, for the 2014-2015 school year. The report will identify the complainant(s), the date(s) of the discriminatory conduct, the alleged discriminatory conduct, the person(s) alleged to be responsible for the discriminatory conduct, documentation of all aspects and evidence gathered during the investigation conducted, policies relied on and the HCCC's response to the complaint and any other pertinent facts of the complaint, in accordance with Section 2(V) above.

Student Relief:

Action Item #3:

- I. The HCCC will conduct a formal investigation into the denial of the student's approved academic adjustments and/or auxiliary aids and services by the professor during the summer of 2013. The investigation will meet the requirements of the disability grievance process delineated in Action Item #2 (III) above and take appropriate sanctions against the professor deemed commensurable with the determination of the formal investigation conducted.
- II. The LISD will offer, in writing, to the identified student in this complaint, the opportunity to have the identified student evaluated by a certified counseling professional (e.g., a certified counselor, psychologist, or psychiatrist, knowledgeable about the emotional and mental effects of students with disabilities who have perceived or experienced incidents of mental anguish based on public embarrassment resulting from the actions of an institution's official) chosen by the identified student in order to determine if the student was negatively affected by the reported alleged incident and to determine whether the identified student is in need of counseling or other measures to remedy the effects of the reported alleged incident on the student. If it is determined by the counseling professional that the identified student is in need of counseling, the HCCC will provide the counseling or other remedial measures, as deemed necessary, at its own expense, within a reasonable period of time, but in any event, no later than the end of the 2014 – 2015 school year.

Reporting Requirements for Action Item 3:

- A. By April 15, 2014, the HCCC will provide OCR documentation that Action Item #3(I) has been complete. The documentation should include a written report explaining how the HCCC's investigative process was conducted, its factual findings and support for those findings, the HCCC's policies applied, its determination as to whether disability discrimination occurred, the reasons for the decision, including statements provided by the allegedly affected student(s), the professor in question, and any other witnesses or reporting parties, the evidence reviewed, any corrective actions taken or sanctions applied, and a copy of the letter of finding/report issued at the conclusion of the investigation.

- B. By April 29, 2014, the HCCC will provide OCR documentation that Action Item #3(II) has been complete. The documentation should include how the identified student’s need for counseling was evaluated, the areas addressed or the basis for the counseling, the length of time the counseling was provided, who conducted the counseling and where the counseling was conducted, and the outcome of the counseling (i.e. was it successful in accomplishing the goal of the counseling).

Signed:

Renee Byas
Acting Chancellor

Date