

RESOLUTION AGREEMENT

Docket Number 07142186
Mid-America Christian University

The U.S. Department of Education, Office for Civil Rights (OCR), conducted a complaint investigation of the Mid-America Christian University (University), Oklahoma City, Oklahoma, pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 C.F.R. Part 104. The University, as a recipient of Federal financial assistance is subject to the requirements of Section 504.

The complainant alleged the University withdrew her from the University because of her perceived disability (XXXXX).

Before OCR completed its investigation, the University agreed to take the following actions:¹

NOTICE OF NONDISCRIMINATION

1. By December 15, 2014, the University will revise its combined notice of nondiscrimination to ensure that it: 1) specifies the bases for nondiscrimination in its education programs and activities; and 2) identifies by name or title, address, and telephone number of the employee(s) responsible for coordinating the University's compliance efforts, particularly the employee(s) responsible for coordinating the University's compliance efforts under Section 504 and Title IX of the Education Amendments Act of 1972.²

REPORTING REQUIREMENT: By December 15, 2014, the University will submit a draft of the revised notice of nondiscrimination to OCR for its review and approval.

2. Within 60 calendar days of receiving written notification from OCR that the revised notice of nondiscrimination is acceptable, the University will include the approved nondiscrimination statement on its website and in new and reprinted University publications, including catalogs, student handbooks, announcements, bulletins, and application forms, that it makes available to University students, employees, and applicants.

¹ The University is resolving this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. This Agreement is entered into to ensure the University's compliance with Section 504. It does not constitute an admission of liability on the part of the University, nor does it constitute a determination by OCR of any violation of Section 504 which was at issue in this complaint.

² See <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html> for a sample notice of nondiscrimination that meets the minimum requirements of the regulations enforced by OCR.

REPORTING REQUIREMENT: By December 15, 2014, the University will provide OCR documentation showing it has complied with item 2 of this Agreement.

SECTION 504 GRIEVANCE PROCEDURES

3. By December 15, 2014, the University will review and revise its Section 504 grievance procedures to ensure the procedures at a minimum:
 - a) provide an explanation of how to file a complaint under the procedures, including the title and contact information of the staff person responsible for investigating a grievance and where and in what manner complaints can be filed;
 - b) provide for the adequate, reliable, and impartial investigation of complaints, including the opportunity for all parties involved to present witnesses and other evidence;
 - c) require records detailing the investigation; including notes of interviews, copies of documents reviewed, and other relevant information to be maintained;
 - d) set time frames for major stages of the complaint process;
 - e) require written notification to the parties of the outcome of the complaint investigation;
 - f) include an assurance that the University will keep the identity of the complainant, the complaint, and investigation confidential to the extent possible;
 - g) include an assurance that the University will take steps to prevent the recurrence of any discrimination and/or harassment, and to remedy the discriminatory effects of discrimination and/or harassment, of which it has notice;
 - h) include a provision prohibiting retaliation against a student who files a grievance or individuals who participate in a grievance; and
 - i) include the name or title, address, and telephone number of the employee(s) responsible for coordinating the University's nondiscrimination compliance efforts under Section 504.

REPORTING REQUIREMENT: By December 15, 2014, the University will submit its revised Section 504 grievance procedures to OCR for its review and approval.

4. Within 60 calendar days of written notification from OCR that its Section 504 grievance procedures are consistent with Section 504 requirements and the terms of

item 3, the University will adopt and implement the procedures, publish the procedures in its student handbooks, and post the procedures on its website in a section accessible to students and parents.

REPORTING REQUIREMENT: The University will provide OCR documentation by December 15, 2014, showing it has complied with item 4 of this Agreement. If the Section 504 grievance procedures are available on the University's website, the University may provide OCR with a link to the publication.

5. **REPORTING REQUIREMENT:** By June 30, 2015 and January 18, 2016 (dates within four weeks of the end of the second semester of the 2014-15 academic year and end of the first semester of the 2015-16 academic year), the University will provide documents demonstrating its implementation of the Section 504 grievance policy or procedure adopted pursuant to this section. By December 15, 2014, the University will provide Section 504 training for all Disability Services staff, which includes all personnel who are involved in implementing the procedures outlined under items 1 and 3 of this Agreement to ensure that staff are aware of and able to implement these procedures. The training will provide an overview of the legal standards for students with disabilities under Section 504 and the University's applicable Section 504 grievance procedures.

REPORTING REQUIREMENT: By December 15, 2014, the University will provide OCR documentation showing it has completed the training described above. The documentation must identify the following: a) the date, time and location of the training; b) the topics addressed at the training(s) (the University may provide OCR an outline of the training and copy of the materials disseminated at the training); c) the name(s), title(s), and credentials of the individual(s) who conducted the training; and d) the name, title, and work location of each University administrator or employee who attended the training (a sign-in sheet with the attendees' names, titles, and work locations is sufficient).

STUDENT DISCIPLINE PROCEDURES

6. By December 15, 2014, the University will revise its student discipline policies and procedures to ensure they are consistent with the provisions of Section 504 when determining whether a student with a disability poses a direct threat to the health and safety of others. Where the risk of harm to others³ cannot be considered imminent (i.e., situations determined by the University not to be an emergency), and the

³ The only statutory or regulatory authority for the use of the direct threat analysis in Section 504 concerns a direct threat to others. Although the concept of direct threat to self does exist in the employment context in Title I of the ADA, there is no statutory or regulatory basis to interpret the direct threat to self in employment cases as creating a direct threat to self in cases involving the receipt of education under Section 504.

University seeks to determine whether a student with a disability is a direct threat⁴ to others, the University's revised discipline policies and procedures will include the following:

- A. Before prohibiting a student with a documented or perceived disability from participating in or benefiting from the University's services, programs or activities, the University will make an individualized assessment of the direct threat posed by the student. The determination that a student poses a direct threat to the health or safety of others must be based on an individualized and objective assessment, rather than on speculation about future risk. The determination must be based on reasonable judgment founded on the most current medical knowledge from qualified professionals or on the best available medical evidence. Factors to be considered in the direct threat determination are: the duration, nature and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of the University's policies, practices, or procedures, or the provision of auxiliary aids and services, will mitigate the risk. The University will consult with individuals with in depth knowledge experience in the area of the student's disability as part of the direct threat determination.
- B. Where safety is of immediate concern, the University may set interim conditions on the student while completing the assessment, provided that the student is given notice of the University's actions and is provided minimal due process.
- C. If the University determines a student poses a direct threat to others, the University 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 University will not, however, condition the provision of a benefit or service upon a showing by a student that he or she has eliminated behaviors that are a manifestation of a disability, unless such behavior significantly contributed to the direct threat.

REPORTING REQUIREMENT: By December 15, 2014, the University will provide OCR a draft of the proposed policy and procedure for determining whether a student with a disability poses a direct threat to the health and safety of others developed pursuant to item 6 for review and approval.

⁴ Under Section 504, a person is not a qualified individual with a disability if the person poses a direct threat to the health or safety of others that cannot be eliminated by modification of policies, practices, or procedures, or by the provision of auxiliary aids and services. *See, School Board of Nassau v. Arline*, 480 U.S. 273, 287 (1987).

REPORTING REQUIREMENT: Within 15 days of receiving OCR’s approval of the policy and procedure developed pursuant to item 6 the University will adopt the procedure and provide notice to OCR of its adoption and the effective date for the policy and procedure.

7. By December 15, 2014, the University will notify students, faculty, and staff of its policy and procedure for determining whether a student with a disability poses a direct threat to the health or safety of others by posting the standards and procedures on the University’s website, including them in the Student Handbook, and other effective means of notification.

REPORTING REQUIREMENT: By December 15, 2014, the University will provide OCR with documentation showing it has complied with item 7 of this Agreement. The University will provide OCR with copies of the publications including the standards and procedures or provide OCR with workable links to where the information can be found on the University’s website.

REPORTING REQUIREMENT: By June 30, 2015 and January 18, 2016 (dates within four weeks of the end of the second semester of the 2014-15 academic year and end of the first semester of the 2015-16 academic year), the University will provide documents demonstrating its implementation of the OCR approved policy for determining whether a student with a disability poses a direct threat to the health or safety of others adopted pursuant to this section.

8. By December 15, 2014, the University will provide training to its designated Section 504 Coordinator and any University official(s) responsible for administering the University’s direct threat policy and procedure regarding its proper implementation and administration consistent with the provisions of Section 504.

REPORTING REQUIREMENT: By December 15, 2014, the University will provide OCR with documentation showing it has completed the training described in item 8. The documentation must identify the following: 1) the date, time, and location of the training; 2) the topics addressed at the training (the University may provide OCR an outline of the training and a copy of the materials disseminated at the training); 3) the name(s), title(s), and credentials of the individual(s) who conducted the training; and 4) the name and title of each University employee who attended the training.

INDIVIDUAL REMEDIES FOR THE COMPLAINANT

9. By December 15, 2014, the University will send a letter to the complainant advising her that upon written request within 12 months from the date of the University’s letter, the complainant will be reinstated as a student at the University in the same status as she held prior to her withdrawal by the University.

REPORTING REQUIREMENTS: By December 15, 2014, the University will submit to OCR a copy of the letter to the complainant notifying her that if she requests to be readmitted as a student, the University will reinstate her to her previous status.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the University understands that during the monitoring of this Agreement, 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 Section 504 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 Section 504.

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

/s/ John Fozard
John Fozard, President
Mid-America Christian University

9/18/2014
Date