

RESOLUTION AGREEMENT
ROSE STATE COLLEGE
OCR Docket # 07152240

The Rose State College (College), Midwest City, Oklahoma, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced discrimination complaint against the College and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws.

I. GENERAL PROVISIONS

The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case.

The College 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 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 and Title II which were at issue in 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 sixty (60) calendar days to cure the alleged breach.

II. RESOLUTION PROVISIONS

REVISION AND PUBLICATION OF ANTI-DISCRIMINATION POLICIES AND GRIEVANCE PROCEDURES

- 1) The College shall revise the College's combined notice of nondiscrimination in accordance with Section 504, Title II, Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (Title IX); the Age Discrimination Act of 1975, 42 U.S.C. § 6101; Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and the implementing regulations of these federal laws. The College may consult with OCR for technical assistance in revising the notice of nondiscrimination, and may refer to OCR's policy guidance entitled *Notice of Non-Discrimination*, including the sample combined notice of

nondiscrimination,¹ and OCR's *Dear Colleague Letter* (April 4, 2011, page 6, pertaining to notices of nondiscrimination).²

- 2) The College shall revise its anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures to provide for the prompt and equitable investigation and resolution of discrimination complaints,³ including the addition or revision of language to address the following:
 - a. A prompt, adequate, reliable, and impartial investigation of discrimination complaints, including the opportunity for both parties to present witnesses and provide evidence;
 - b. Designated and reasonably prompt timeframes for the major stages of the complaint processing;
 - c. Notice to parties of the outcome of the complaint;
 - d. Assurance that if discrimination, including harassment or retaliation, has occurred, prompt and appropriate corrective and remedial actions will be taken;
 - e. An anti-retaliation provision prohibiting retaliation, intimidation, threats, coercion, or discrimination against any person for opposing discrimination, including harassment, or for participating in the College's discrimination complaint process or making a complaint, testifying, assisting, or participating in any manner, in an investigation, proceeding, or hearing;
 - f. The addition of the designated compliance coordinator's required contact information; and
 - g. The incorporation of the applicable grievance procedure requirements set forth in OCR's *Dear Colleague Letter* (April 4, 2011), and subsequent OCR guidance; including, but not limited to, the following:
 - i. Language stating that College employees, supervisors, and administrators must promptly report to the designated coordinator any complaints, reports, and observations of, or other information relating to, alleged discrimination, including harassment and retaliation. College employees, supervisors and administrators

¹ OCR's guidance entitled *Notice of Non-Discrimination* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>.

² OCR's April 4, 2011 *Dear Colleague Letter* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

³ OCR recommends a combined policy and grievance procedure for complaints of discrimination, harassment, and retaliation based on race, color, national origin, sex, disability, and age.

who receive a complaint of discrimination, harassment or retaliation must provide the complainant with information about filing a complaint of discrimination, including providing a complaint form if requested, and providing contact information for the College's designated coordinator. Such reports must be made even if the information or complaint came to the College employee, supervisor or employee in the course of disciplinary proceedings. If the College uses its disciplinary procedures to investigate and resolve such an alleged discrimination complaint, those disciplinary procedures will comply with the College's standards for its anti-discrimination grievance procedure.

- ii. Language stating that the College will not delay its investigation of discrimination complaints because an outside entity or law enforcement agency is investigating a complaint involving the same facts and allegations.
- iii. Language requiring a review of the evidence using a preponderance of the evidence standard (for instance, based on the evidence, is it more likely than not that discrimination, harassment, or retaliation occurred).
- iv. A written investigative report which shall include: 1) a summary of the facts, 2) an analysis of the appropriate legal standards applied to the specific facts, 3) findings regarding whether discrimination occurred, and 4) if a finding is made that discrimination occurred, the recommended remedy(ies) necessary to eliminate discrimination, prevent its recurrence, and remedy its effects.
- v. The interim and permanent steps the College will take to stop the discrimination, including harassment and retaliation, remedy the discrimination, harassment, or retaliation, and prevent recurrence, including examples of the range of possible disciplinary sanctions and remedies available to address the discriminatory effects on the complainant and others.
- vi. The resources, including medical and counseling resources that are available to students and witnesses.
- vii. An expanded list of designated compliance coordinator duties.⁴
- viii. A requirement that the designated College employee(s) document all complaints of discrimination, including harassment and retaliation, and that the College establish a protocol for recordkeeping.

⁴ See OCR's *Dear Colleague Letter* (April 4, 2011) for additional information. OCR's April 4, 2011 *Dear Colleague Letter* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

- ix. An assurance that the College will keep the complaint and investigation confidential to the extent possible.

REPORTING REQUIREMENT: Within 90 calendar days from the date this Agreement is executed, the College will provide to OCR a draft, revised combined notice of nondiscrimination and the revised anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures in accordance with this Agreement for OCR's review and approval.

- 3) The College shall prominently display the notice of nondiscrimination on the homepage and each separate section of the College's website. The online notice of nondiscrimination shall contain a link to the College's anti-discrimination, anti-harassment, and anti-retaliation policies and grievance procedures, including a discrimination complaint form.

REPORTING REQUIREMENT: Within 30 calendar days following the College's receipt of OCR's approval of the revised notice of nondiscrimination, the College will provide to OCR a link to the revised, combined online notice of nondiscrimination with the embedded links.

- 4) The College shall publish and prominently display the revised, OCR-approved combined notice of nondiscrimination in an easily visible location in electronic and printed publications for general distribution, including, but not limited to, the following publications: a) bulletins; b) announcements (excluding unforeseeable announcements such as inclement weather notices); c) catalogs; d) student and employee application forms; e) recruitment materials, f) board policies and grievance procedures for discrimination complaints; g) student, employee and faculty handbooks, and h) student codes of conduct. For publications such as student, employee, and faculty handbooks, the notice should be placed at the beginning of each handbook in a section entitled *Notice of Nondiscrimination* or a similar title, with a reference in the index or table of contents. The revised notice also shall be prominently posted in an easily visible location in the College administration building(s).

REPORTING REQUIREMENT: Within 30 calendar days following the College's receipt of OCR's approval of the revised notice of nondiscrimination, the College will provide to OCR a current list of the posted, electronic (including online), and hard-copy publications containing the revised, OCR-approved combined notice of nondiscrimination, with links to the electronic publications and copies of the hard-copy publications. For any College hard-copy publications that will not be revised until the 2016-17 school year, the College will at the same time provide OCR with a list of such publications, and copies of those revised hard-copy publications will be provided to OCR no later than **January 1, 2017**.

COMMUNICATION OF REVISED POLICIES AND PROCEDURES

- 5) The College shall communicate its revised policies, procedures, and forms required by this Agreement to all College employees and officials by:
 - a. Disseminating those revised policies and procedures via the College's electronic communications (email) system; and
 - b. Including those revised policies and procedures on the College's website and in the online and hard-copy student, employee, and faculty handbooks in a section entitled *Nondiscrimination* or a similar title.

REPORTING REQUIREMENT: Within 30 calendar days following the College's receipt of OCR's approval of all of the College's revised policies and procedures described in this Agreement, the College will provide to OCR a copy of (1) the College's revised policies and procedures in final form, (2) the email message and attachments distributing the revised policies and procedures via the College's email system, and (3) links to the revised policies and procedures on the College's website and in the online student, parent, and employee handbooks. For College hard-copy handbooks that will not be revised until the spring or summer of 2016, the College will provide OCR with copies of those revised hard-copy handbooks no later than **January 1, 2017**.

ACADEMIC ADJUSTMENTS AND AUXILIARY AIDS

- 6) The College will develop, for OCR's review and approval, a procedure for providing academic adjustments and/or auxiliary aids to qualified students with a disability (accommodations procedure). The accommodations procedure will be consistent with the requirements of the Section 504 regulation at 34 C.F.R. §104.43 and §104.44. The College may consult with OCR for technical assistance in developing the accommodations procedure., which shall:
 - a. Ensure that there is a clear method available for a student with a disability to request academic adjustments and/or auxiliary aids necessary to allow the student full participation in the College's program of instruction;
 - b. identify the College's obligation to provide academic adjustments and/or auxiliary aids to students with a disability;
 - c. identify who a student with a disability should contact and what information the student should provide in order to obtain academic adjustments and/or auxiliary aids;

- d. identify how the College will make decisions regarding which academic adjustments and/or auxiliary aids are necessary, and how it will participate in the decision-making;
- e. include a provision requiring the College to engage in an interactive process with the student requesting academic adjustments or auxiliary aids and conduct an individualized inquiry based on the student's individual needs and disabilities and the nature of the College's course and program;
- f. identify how the College will engage in an interactive process with the student requesting academic adjustments or auxiliary aids;
- g. require the College to consider the cost, feasibility, and the effect on its academic program of providing a student with a disability access to its educational program and determine that the alternatives would result either in lowering academic standards or requiring substantial program alteration before the College denies a student's request for academic adjustments or auxiliary aids based on a disability;
- h. provide students with disabilities a written detailed description of the process that the College went through in making a determination to deny the request, including the appeal procedure if the student disagrees with the determination;
- i. identify the procedure the College will follow if there is a dispute between the College and a student about which academic adjustments and/or auxiliary aids are necessary and will be provided;
- j. address the circumstances under which the College may request its own evaluation (to be completed at the College's expense) of the Student's disability and need for academic adjustments and auxiliary aids; and
- k. Identify a methodology to ensure that decisions and information regarding which academic adjustments and/or auxiliary aids to be provided to students with disabilities are timely communicated to faculty and staff.

REPORTING REQUIREMENT: Within 90 calendar days from the date this Agreement is executed, the College will submit the accommodations procedure to OCR for review and approval.

- 7) **Within 30 days** after receiving notice of OCR's approval of the accommodations procedure, the College will provide in-service training to all personnel, other than faculty, who are involved in determining academic adjustments and/or auxiliary aids to qualified students (including administrators, Section 504 coordinators, and all student resource center staff) regarding the accommodations procedure. Faculty will be informed of the

accommodations procedure by a memo distributed to all faculty, including adjunct faculty.

REPORTING REQUIREMENT: Within 90 calendar days following the College's receipt of OCR's approval of the accommodations procedure, the College will provide OCR with evidence that training has been provided as required by this provision, including the name and credentials of the trainer, a copy of the training materials, and an attendance sheet signed by all training participants. The College will provide OCR with evidence of the distribution of the memo to faculty regarding the procedures for providing academic adjustments and/or auxiliary aids to disabled students, including a copy of the memo and a description of how it was distributed.

- 8) By September 1, 2016, the College will publish and post the accommodations procedure on the College's website.
- 9) By January 1, 2017, the College will publish the accommodations procedure in the College's student and faculty handbooks. The College will include in the catalog a statement that the College has procedures for providing academic adjustments and auxiliary aids and where to find them. This will be included in the next publication of the catalog at a date at the beginning of this paragraph.

REPORTING REQUIREMENT: By September 1, 2016, the College will provide OCR with a copy of the student and faculty handbooks containing the accommodations procedure. The College will also provide OCR with a link to the website where the procedures are posted. By September 1, 2016, the College will submit the catalog to OCR.

REPORTING REQUIREMENT: By June 30, 2016, and January 31, 2017, the College will provide OCR with a list showing all request for academic adjustments and auxiliary aids request from students with disabilities during the second semester of the 2015-2016 academic year and the first semester of the 2016-2017 academic year. The College's submission will include the name and contact information for the students making the requests, a copy of all documents (including emails) regarding the request, notes from the College representative who processed the request regarding the request (including notes of conversations or other communication with other College employees), and the written notice to the student of the determination made in response to the request for academic adjustments or auxiliary aids, including an explanation of the basis for a denial of a request.

INDIVIDUAL REMEDY

- 10) **Within ten calendar days** from the date this Agreement is executed, the College shall contact the Complainant and the Student in writing to schedule a meeting at a mutually agreeable date and time, which shall include the Complainant, the Student, the Student's parent, and anyone else the Student wishes to participate in the meeting.
- a. The meeting participants will discuss any of the Student's requests for academic adjustments and auxiliary aids that were made between February 2, 2015, and the date of this agreement which are not currently approved for use.
 - b. The College will engage in an interactive process as specifically set out in item 6 above with the Student to determine whether any of the Student's academic adjustments and auxiliary aids requests from February 2, 2015 through the date of this agreement that have not been approved for use are necessary to ensure an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the complainant's needs.⁵
 - c. In the event that the College determines that the requested accommodations are appropriate, the College will provide the Student with an opportunity to employ the academic adjustments and auxiliary aids to those courses in which she has been enrolled during or subsequent to the denial of the requested academic adjustment or auxiliary aid. In the event that the College makes a determination that the requested academic adjustment or auxiliary aid is not appropriate and necessary, the College will submit a written letter to the Student outlining the process that the College used in making a determination to deny the request and provide her with notice of the method by which she may appeal the determination.
 - d. If the Complainant and/or the Student declines to participate or does not respond to the College's written invitation for a meeting (pursuant to this provision) within (3) three weeks from the date of invitation, the College's obligations under this individual relief section will be deemed to have been met.

REPORTING REQUIREMENTS: **Within 30 days** after the conclusion of the meeting required by this provision, the College will submit to OCR documentation of its determinations for OCR's review and approval, including but not limited to:

- a. An explanation of the information considered and the decisions made by the College regarding whether to allow the Student to use her notes on her math exams; and

⁵ The College shall specifically review the requests for academic adjustments and auxiliary aids made by the Student on January 6, 2016.

- b. If a decision was made to not allow the Student to use her notes on her math exam, a copy of the letter submitted to the Student, outlining how the College made its decision.

The person(s) signing for the College represents that she is authorized to bind the College to this Agreement.

For the College:

/S/ Jeanie Webb

Dr. Jeanie Webb
President of Rose State College

January 26, 2016

Date