

**Resolution Agreement
Clarkson College
Docket # 07172035**

Clarkson College, Omaha, Nebraska (College), submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve this complaint that was filed under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104, prohibiting discrimination on the basis of disability by recipients of Federal financial assistance (FFA); and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, prohibiting discrimination on the basis of disability by public entities. The Agreement addresses the complainant's allegation that the College failed to comply with 34 C.F.R. § 104.44 when it failed to modify its course withdrawal/refund policy to allow her to withdraw after the identified deadlines without penalty despite her notification to the College that her alleged disability was impacting her ability to complete course work during the Fall 2015 and Winter 2016 semester. The Agreement also addresses the complainant's allegation that the College again failed to provide appropriate modifications to the same policy when it penalized her for late withdrawal from Fall 2016 courses, despite the fact that she was postponing her withdrawal pending the College's decision regarding her appeal of how it responded to her late withdrawal from Winter 2016 semester courses.

The College agrees to take the following actions:

TRAINING OF COLLEGE STAFF MEMBERS

1. By July 15, 2017, the College will provide training regarding Section 504 and Title II to its Section 504 coordinator, accommodations coordinator, and all College administrators responsible for reviewing and making determinations in response to student-filed petitions for reconsideration. At a minimum, the training must address:
 - (a) Section 504's and Title II's prohibition against disability discrimination;
 - (b) how to recognize when a student's petition for reconsideration requires the College's consideration and/or development of academic adjustments (including, but not limited to, exemptions from generally applicable College policies and procedures that do not require a fundamental alteration of the College program in question), and/or an access plan; and
 - (c) examples of situations in which the College must modify or make an exemption regarding generally applicable College policies and procedures for a student who has notified the College of his or her disability, requested academic adjustments, and followed the College procedures for making such a request.

REPORTING REQUIREMENT: By July 25, 2017, the College will provide OCR documentation showing it has provided the training session required by item 1 of this Agreement for OCR's review and approval. The documentation must include:

- i. the date, time and location of the training;
- ii. the topics addressed at the training;
- iii. copies of handouts distributed to the training participants;
- iv. the name(s) title(s), and credentials of the individual(s) who conducted the training; and
- v. one or more sign-in sheets with the name and title of each employee who participated in the training.

INDIVIDUAL REMEDY

2. By August 1, 2017, the College will convene a committee consisting of at least three administrators (Review Committee)¹ to review the College's decision to deny the Complainant's petition for reconsideration filed in October 2016. The College will notify the Complainant in writing that it has appointed a Committee to review the College's decision; the names of the Committee members; and the name and contact information of the person to whom the Complainant may send information she wishes the Committee to consider as part of its review. The College must allow the Complainant 30 calendar days from the date of its notification letter to the Complainant to submit the requested information.
3. Within 30 calendar days of either receiving additional information from the Complainant or the expiration of the deadline for her to do so, the Review Committee will review the Complainant's requested action in her October 2016 petition for reconsideration and determine whether to uphold or revise the College's original determination. The Review Committee will consider both the information originally submitted by the Complainant in her October 2016 petition for reconsideration, the information previously provided to the Complainant in previous petitions for reconsideration, the Complainant's access plan in effect at the time of the October 2016 petition, and any other information submitted by the Complainant in response to the College's request for additional information described in item 2. The Review Committee may also gather additional information from other sources within the College as it determines appropriate, including information from professors or the accommodations coordinator. The Review Committee will determine, based on the information available, whether the Complainant's requested action in her October 2016 petition constituted a fundamental alteration of the College's: i) policies and procedures for students with disabilities to request academic adjustments; ii) tuition payment and refund procedures; and/or iii) financial aid disbursement and refund procedures. The Review Committee will notify the Complainant of its decision in a written letter within

¹ This Review Committee is formed solely to review the College's decision to deny the Complainant's petition for reconsideration. At least one member of the Review Committee will be knowledgeable about the College's legal obligations to comply with Section 504 and Title II regarding students with disabilities.

10 calendar days of reaching its decision. The Review Committee's decision is not appealable or subject to further College review.

REPORTING REQUIREMENT: Within 30 days of the Review Committee reaching its determination, the College will provide to OCR for review and approval, documentation of the determination made by the Review Committee described in items 2 and 3 of the Agreement. The documentation will include a copy of the written notice provided to the Complainant, the names and titles of the individuals who participated on the committee, the information considered by the committee, copies of any correspondence between the complainant and the Committee, copies of any documentation reviewed by the Review Committee, copies of notes or minutes from the Review Committee meetings, and the basis for the committee's determination.

4. If the Student re-enrolls at the College, the College will promptly engage in an interactive process with the Student, consistent with its policies and procedures related to providing students with disabilities academic adjustments and auxiliary aids, to determine what modifications to its academic requirements are necessary to ensure that such requirements do not discriminate or have the effect of discriminating against the Student because of her disability. If academic adjustments are determined to be appropriate and necessary, the College will ensure that they are provided to the Student. If the Student advises the College or it otherwise becomes aware that approved academic adjustments are ineffective or have not been provided, the College will immediately engage in an interactive discussion with the Student to determine what, if any, additional adjustments are necessary and ensure that the agreed-upon adjustments are promptly provided.² The College need not verify the Student's reenrollment to OCR unless the Student reenrolls before December 31, 2017.

The College 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 the regulations implementing Section 504, at 29 U.S.C. § 794, and Title II, at 42 U.S.C. § 12131, 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 and that all actions taken to comply with the requirements of the Agreement are subject to OCR's review and approval. 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 regulation implementing Section 504, at 29 U.S.C. § 794, and Title II, at 42 U.S.C. § 12131, which were at issue in this case.

² During the course of the investigation, the Complainant informed OCR that she believed the professors in two of her courses, a statistics class and a clinical class, failed to provide her with the academic adjustments in her access plan for that semester. The Complainant could not recall the names of the particular professors, the dates or approximate timeframes of the refusal, or the nature of the specific adjustments refused by the professors.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including 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, including 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.

/s/Debra Tomek on behalf of Dr. Tony Damewood
President, Clarkson College

5-31-17
Date