

## RESOLUTION AGREEMENT

### Pima Community College

08-14-2291

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced complaint against the Pima Community College (College) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. The College agrees to implement the following terms of this Resolution Agreement.

1. By October 15, 2015, the College will submit to OCR for review and approval a procedure (Procedure) to ensure the timely provision of note-takers to students with disabilities for whom note-takers have been determined to be an appropriate accommodation. The procedure will include:
  - a. a statement of the College's duty to comply with Section 504 and Title II, including the duty to provide auxiliary aids and academic adjustments. The statement shall state that the College may not provide disabled students with benefits or services that are not effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
  - b. clarification that (1) when note taker services are requested by a student with a disability and supported by the student's documentation, the note taker service will be provided unless the College can demonstrate that providing the note taker would result in a fundamental alteration of the program or constitute an undue burden, (2) other aids such as audio recording, a Livescribe pen, or class presentation materials will only be substituted for note taking services while a note taker is being obtained, or when the student who has been approved for note taking service specifically requests or agrees to such a substitution, (3) the College will promptly initiate an interactive process when it proposes not to honor the student's request; and (4) the College will not rely entirely on a student's professor to find or obtain a note-taker, or any other auxiliary aid.
  - c. an assurance that the College will secure a note taker in a timely manner for every student for whom it has approved such services as an accommodation; if the College approves the service prior to the beginning of a semester, it will obtain a note taker for the student no more than one week from the first day of a class for which a student has been approved for services; if note taker services are approved after the beginning of a semester, the note taker will be provided no more than one week after the approval, and
  - d. an assurance that, when a volunteer student from the class cannot be obtained within the time limits in (c), the College will take other steps to ensure that a note taker is obtained within one additional week; the steps may include providing additional incentives to student volunteers, paying a College staff member, or paying an outside provider.

## **REPORTING REQUIREMENT**

By October 30, 2015, the College will submit the Procedure to OCR for its review and approval. The College will continue to revise the Procedure until OCR notifies the College in writing of its approval of the Procedure.

2. Within 15 days of OCR's approval of the Procedure in Term 1, the College shall issue a memo (Memo), to all members of the College's Office of Access and Disability Resources (ADR). The Memo shall explain that Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 require the College to provide disabled students with benefits or services that are effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. It additionally shall explain that the College has modified a (or issued a new) procedure to ensure the timely provision of note-takers to students with disabilities for whom note-takers have been determined to be an appropriate accommodation. The memo shall include a copy of the new Procedure.

## **REPORTING REQUIREMENT**

Within 10 days of the date the College issues the Memo, the College shall provide OCR with a statement confirming it has issued the Memo, a list of names along with job titles of all recipients of the Memo, and a copy of the final memo as issued. The College shall provide supporting evidence showing it has issued the Memo (e.g. copy of email showing list of recipients).

3. By October 15, 2015, the College will return all monies it received for the Complainant's enrollment in the 2014 XXXXXXXXX course, including tuition and fees, to the Complainant or her funding source/s as appropriate. The College will also write-off any balance currently owed by the Complainant, if any, related to the 2014 XXXXXXXXX course.

## **REPORTING REQUIREMENTS**

By October 30, 2015, the College will provide OCR with documentation demonstrating compliance with Term 3.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

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 Section 504 and its implementing regulation at 34 C.F.R. § 104.44 and Title II and its implementing regulation at 28 C.F.R. § 35.160, 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. Further, the College understands that during the monitoring of this Agreement, 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 Section 504 and its implementing regulation at 34 C.F.R. § 104.44 and Title II and its implementing regulation at 28 C.F.R. § 35.160.

/s/

\_\_\_\_\_  
Pima Community College

/date/

\_\_\_\_\_  
Date