

RESOLUTION AGREEMENT

Arizona Western College Case Number 08-15-2029

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced complaint against the Arizona Western College (“College”), pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The College agrees to implement the following terms of this Resolution Agreement.

- 1) The College shall draft a memo (Memo) for OCR’s review and approval, to be sent to the AccessAbility Resources Services Coordinator (AARSC) and her supervisor, the Dean of Residential Life (Dean) and her supervisor, and the Senior Technology Coordinator and his supervisor. 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 auxiliary aids and services to ensure that individuals with disabilities who seek to participate in or benefit from any educational aid, benefit, or service of the College are provided with effective communication. It additionally shall explain that effective communication means that the communications “are as effective as communications with others.” It shall further explain that when the College chooses to provide interpretation services through the use VRI, it shall comply with the requirements of 28 C.F.R. §35.160(d), which requires the College to ensure that it provides:
 - i) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
 - ii) A sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the participating individual’s face, arms, hands, and fingers, regardless of his or her body position;
 - iii) A clear, audible transmission of voices; and
 - iv) Adequate training to users of the technology and other individuals so that they may quickly and efficiently set up and operate the VRI.

REPORTING REQUIREMENT

Within 10 days of the date of the Agreement, the College shall provide OCR with a copy of the draft Memo for OCR’s review and approval. The College will continue to make changes until it receives OCR’s approval.

- 2) Within 10 calendar days after the College has received OCR's approval of the Memo, the College shall issue the Memo to the staff identified in Term 1.

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) Within 10 calendar days of the Agreement, the College shall send the Complainant a letter (Letter). The Letter shall explain that the College is offering the Complainant an opportunity to reconvene the November 13, 2014 hearing with a neutral in-person ASL (American Sign Language) interpreter from outside of Yuma. The Letter shall explain that the College will reconsider its decision as articulated in its November 20, 2014 letter. The Letter shall provide the Complainant with the date, time, and location of the hearing, which shall take place no earlier than 3 weeks from the date the Letter was sent to the Complainant. The Letter shall also explain that the Complainant may request to reschedule the meeting one time, but that the newly scheduled hearing shall take place no later than 2 weeks from the originally scheduled date. The Letter shall also explain that the Complainant shall notify the College's point of contact identified in the Letter whether he plans to attend the hearing on the scheduled date and time or to request to reschedule the hearing no later than 72 hours prior to the scheduled date and time for the hearing. Additionally, the Letter shall explain that if the Complainant declines to attend the hearing or fails to comply with the terms of the Letter, the College's decision as articulated in its November 20, 2014 letter is final.

REPORTING REQUIREMENT

Within 10 days of the date the College sends the Complainant the Letter, the College will provide OCR with a copy of the Letter and documentation showing that the College sent the letter.

If the Complainant declines to attend the hearing or fails to comply with the requirements of the Letter, the College shall provide OCR with a chronology of all actions the Complainant and the College took and all communications between the Complainant and the College. The College shall provide OCR with copies of any and all related documents and communications. The College shall provide OCR with the chronology and copies within 10 days of the date the Complainant declines to attend the hearing or the College determines that the Complainant failed to comply with the requirements of the Letter.

If a hearing is held, within 10 days of the date the hearing is held, the College shall provide OCR with a statement (Statement). The Statement shall provide the name/s of the ASL interpreter/s that provided the interpretation services for the hearing and their qualifications. The Statement shall also describe and state whether the Complainant

made any comments or complaints regarding the effectiveness of the communication or interpretation services provided.

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 the regulation implementing Section 504 of the Rehabilitation Act of 1973 at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. Part 35

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 regulation implementing 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, which were at issue in this case.

/s/

Arizona Western College

5/20/2015

Date