

RESOLUTION AGREEMENT
Central New Mexico Community College
Case Number 08-17-2351

In order to resolve the open allegations in Case No. 08-17-2351, filed against Central New Mexico Community College (College) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and its implementing regulation at 34 C.F.R. part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. part 35, the College agrees to take the actions outlined in this Resolution Agreement.

The College indicated its willingness to take steps necessary to continue and enhance its compliance with Section 504 and Title II. The Agreement requirements are aligned with the allegations and consistent with Section 504's and Title II's regulatory requirements. The College's decision to enter into this agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

Policies and Procedures

1. The College will revise its policies and procedures for students requesting academic adjustments (hereafter, accommodations) to ensure that before denying a requested accommodation on grounds that the accommodation would result in a lowering of academic standards or require a substantial program alteration, it will seek faculty input as to whether any academic requirements are essential to the instruction being pursued or to any directly-related licensing requirements. The revised policies and procedures will provide that when considering whether an accommodation would alter an essential requirement or is a substantial program alternation, the decision will be made based on documented evidence on a case-by-case basis and must include the following: 1) the decision is made by relevant officials, including faculty members; 2) the decision-makers consider a series of alternatives, their feasibility, cost and effect on the academic program, and 3) after a reasoned deliberation, the decision-makers reach a rationally justifiable conclusion that the available alternatives would result either in lowering of academic standards or requiring substantial program alterations.

REPORTING REQUIREMENT: Within 60 days of this Agreement, the College will provide OCR, for OCR's approval, its revised draft accommodations policies and procedures.

2. Within 30 days of OCR's approval of the revised policies and procedures identified in Term 1, the College will adopt, implement, and publish and distribute the revised policies, procedures, and notice, including in relevant printed and online materials.

REPORTING REQUIREMENT: Within 60 days of OCR's approval, the College will provide OCR documentation that it has adopted, implemented, and published the revised policies, procedures, and notice, including a list of locations, including the internet and

student handbooks, where the College has published the revised policies and notice.

Individual Remedies

3. Within 15 days of OCR's approval of the policy identified in Term 1 of this Agreement, the College will engage in an interactive process with the Complainant with regard to any previously denied request for accommodations (including but not limited to accommodations related to the completion of xxxxxxxxxxxx) by or on the behalf of the Complainant. During this process, the College will make individualized, case-by-case determinations regarding the previously denied request for an accommodation by the Complainant. The College will utilize the revised standard accommodation process described in Term 1 of this Agreement) at the College.

If the College determines that a previously requested accommodation or a reasonable alternative would not have resulted in either in lowering of academic standards or requiring substantial program alterations, the College shall offer the Complainant the opportunity to retake, at no cost to the Complainant, any course for which a reasonable accommodation could have been granted and, upon completion of the course, expunge any previous grade achieved in the course. In the alternative and with the agreement of the Complainant, the College could recalculate the Complainant's grade for the any course affected by the denial of requested accommodations.

REPORTING REQUIREMENT: Within 15 days of the conclusion of the interactive process with the Complainant, the College will provide OCR documentation regarding the interactive process. At a minimum, the College will submit to OCR, for OCR's approval:

- i. the names and titles of the individuals who participating in making the determination, which shall include at a minimum, (1) member(s) of the DRC staff and xxxxxxxx program staff, and the course(s) for which the accommodation were sought;
- ii. the information considered by the College;
- iii. the basis for the College's determination;
- iv. a description of the process by which the determination was reached and, if the College determined that any accommodation on grounds that the accommodation would result in a lowering of academic standards or require a substantial program alteration, a statement of its deliberative reasons for doing so, including a detailed description of the alternative accommodations considered and rejected;
- v. the nature of how the Complainant was involved in the process; and
- vi. how the determination was conveyed to the Complainant.

If the College determines that a reasonable accommodation could have been granted to the Complainant, it will provide documentation sufficient to show it fulfilled the terms of Item 3, paragraph 2 above, including but not limited to, written documentation of Complainant's decision whether to retake the Course and documentation of the

expungement of a previous grade; or documentation of the method utilized to recalculate the Complainant's grade and documentation that the College updated the Complainant's official transcript after recalculating the grade.

4. With regard to any future request for accommodations by or on behalf of the Complainant, the College will engage in an interactive process with the Complainant to make individualized, case-by-case determinations regarding the request for an accommodation by the Complainant. The College will utilize the revised standard accommodation process described in Term 1 of this Agreement.

REPORTING REQUIREMENT: Within 15 days of the conclusion of the interactive process at the beginning of each semester for which the Complainant remains enrolled in the xxxxxx program at the College, the College will provide OCR documentation regarding the interactive process. If the College grants all requested accommodations, it shall submit documentation of the requested and granted accommodations. If the College alters or denies any requested accommodations, the College will submit to OCR, for OCR's approval:

- i. the names and titles of the individuals who participating in making the determination, which shall include at a minimum, (1) member(s) of the Disabilities Resource Center (DRC) staff, (1) xxxxxx program staff, and the Complainant;
- ii. the information considered by the College;
- iii. the basis for the College's determination;
- iv. a description of the process by which the determination was reached and, if the College determined that any accommodation on grounds that the accommodation would result in a lowering of academic standards or require a substantial program alteration, a statement of its deliberative reasons for doing so, including a detailed description of the alternative accommodations considered and rejected;
- v. the nature of how the Complainant was involved in the process; and
- vi. how the determination was conveyed to the Complainant.

Training

5. Within 15 days of the adoption, implementation, and publication of the approved policies described in Item 1, the College will provide a memo to all College faculty and teaching staff (1) informing the recipients of the changes to the College's accommodations procedures; and (2) explaining the College's affirmative obligation to seek suitable means of reasonably accommodating students with disabilities.

REPORTING REQUIREMENT: Within 15 days after the College has issued the memo, the College will provide OCR with a copy of the memo and documentation that it was provided via email or other means to all College faculty and staff.

6. The College will provide training to all staff in the DRC and administration in the xxxxxx Program, including but not limited to the Academic Affairs Director, regarding

the College's revised policy set forth in Item 1 and the requirements of Section 504 and Title II, including but not limited to the affirmative obligation to seek suitable means of reasonably accommodating students with disabilities.

REPORTING REQUIREMENT A: Within 90 days of this Agreement, the College will provide OCR its draft training materials; identify who will be providing the training, by name, title, and qualifications; and provide a list of personnel required to participate in the training, by name and title.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval, the College will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

The College understands that by signing this Agreement, it agrees to provide data and other information responsive to specific reporting requirements set forth in this Agreement in a timely manner. 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 Section 504 and its implementing regulation at 34 C.F.R. part 104 and Title II and its implementing regulation at 28 C.F.R. part 35. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 the Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____

For Central New Mexico Community College
Name:
Title

Date