

Resolution Agreement
Woodland Community College
OCR Case Number 09-14-2404

Woodland Community College (College) agrees to implement this resolution agreement (agreement) without admitting to any violation of law to voluntarily resolve the issues in the above-referenced complaint. The complaint was investigated by the U.S. Department of Education, Office for Civil Rights (OCR), under Title II of the Americans with Disabilities Act (Title II) and Section 504 of the Rehabilitation Act.

The College agrees to take the following steps:

I. Individual Student

- A. On or before January 11, 2016, the College will send the Student via e-mail and to the address that the College has on file a letter that offers her the ability to submit a claim for reimbursement for any out-of-pocket expenses that she incurred pursuant to her enrollment in accounting and accounting lab (ACCT-1 and ACCT-1A) in the fall 2014 semester. Such expenses may include the cost of books, project fees, registration fees, and other reasonable related expenses. The College may request, but not unreasonably require, receipts or other readily available proof of payment of such expenses from the Student. The letter will inform the Student that the claim for reimbursement must be submitted within thirty days of the date of the letter, and will provide an address and a contact person to which the claim may be mailed. If the Student submits the claim within 30 days, the College will reimburse her for those expenses it determines were necessarily uncured pursuant to her enrollment in accounting and accounting lab (ACCT-1 and ACCT-1A) in the fall 2014 semester. The College will act in good faith in evaluation and determining the claim item(s) to be paid.
- B. Within forty-five days of the date of this agreement, the College will convene a meeting to be attended by the individuals knowledgeable about the Student and about the College's Accounting Program (Program), including the Program Director and Coordinator of its Disabled Student Programs and Services (DSPS). The College will notify the Student of the meeting at least ten days in advance and make reasonable efforts to reschedule the meeting to ensure her attendance.
- C. The purpose of the meeting is to discuss the Student's Program course requirements, course load and completion of her degree. The topics covered at the meeting are to include:
 - i. The College will engage in the interactive process with the Student to determine whether the auxiliary aids and services for which she is currently approved enable her to participate in her courses at the College as a qualified individual with a disability, or whether she requires additional or alternative auxiliary aids and services.

- ii. Whether the Student may meet the course requirements of the Program without being required to take courses with the instructor at issue in her OCR complaint. The College understands and acknowledges its obligation to consider a variety and wide array of information and documentation in reaching its determination, including:
 - a. Consulting with other administrators and officials at neighboring colleges to determine whether those colleges offer courses which would be functionally equivalent to those taught by the instructor at issue;
 - b. Identifying a substitute instructor at the College for the courses;
 - c. Consulting with proper accrediting agencies or similar entities, such as the Accrediting Commission for the Community and Junior Colleges (ACCJC), in order to seek their input and obtain their recommendations for any alternative means of completing the course or locating and determining equivalent courses that could be substituted; and
 - d. Exploring additional means for the Student to complete the course, such as distance education, online courses or independent study.

D. The College will expunge the withdrawal designations on the Student's transcript for ACCT-1 and ACCT-1A in the fall 2014 semester and replace them with the grades she earns by retaking those courses in the manner the team agrees.

E. Within five days of the date of the meeting, the College will provide the Student with a written account of the topics discussed at the meeting.

II. Discrimination Complaint Procedures

The College will revise its administrative procedures (APs), specifically AP 3435, AP 5141, and AP 5530, so that they state one uniform procedure, process, and standard for the submission, investigation, and resolution of complaints alleging discrimination¹ based on disability. If the College continues to maintain three separate procedures that address complaints alleging disability discrimination then it will ensure that the terms and provisions of each are consistent with the others. Whether the College maintains one or more than one disability discrimination complaint procedure, it will ensure that the provisions of each provide a prompt and equitable complaint process consistent with Section 504 and Title II, and that the students receive consistent information regarding the complaint procedure, including:

- A. Ensuring that all information about discrimination complaints, including the nondiscrimination statement, grievance form, harassment policy and academic accommodations policy, is available on the College's website as well as the College District's website and at a location commonly accessed by students and not at the human resources page of the website;

¹All references to "discrimination" are intended to include harassment unless otherwise noted.

- B. Ensuring that the title of any AP that provides a disability discrimination complaint procedure is clear in and of itself to reasonably inform any reader that it is, in fact, a procedure that provides a disability complaint procedure (e.g., the title of AP 5141, if retained as a disability complaint procedure, will be revised so that it will state it contains a disability complaint procedure in addition to stating it is for academic accommodations);
- C. Ensuring that the Student Grievance tab of the Student Services section of the College website includes a reference to the student grievance procedures as well as the student grievance form itself;
- D. Ensuring that the College’s Section 504 Coordinator and the Coordinator’s contact information is consistently identified on the College’s website, including on the Disabled Student Programs & Services (DSPS) webpage, in the College Catalog, in other College publications, and on appropriate discrimination complaint forms;
- E. Ensuring that the College revises the information on the *Diversity and Equity* page of the of the College website to clarify where students may file unlawful discrimination complaints and include a copy of the applicable discrimination complaint procedures and forms; and
- F. Ensuring that the College’s disability discrimination complaint procedures are clearly labeled, located on the DSPS webpage and cross-referenced on the Student Services webpage, explain complaint and appeal procedures, and include the name and contact information for the Section 504 coordinator.
- G. If the College continues to use AP 5530 as a disability complaint procedure, it will revise its provisions to clarify for complaints filed under federal civil rights laws:
 - (i) the types of discrimination that may give rise to a complaint;
 - (ii) that students are not required to participate in an informal resolution process prior to filing a discrimination complaint;
 - (iii) that although the College may encourage use of the official complaint form, the College will treat a complaint of discrimination that is provided in another form (such as an e-mail or letter) as a formal complaint, if the complainant wishes, and will address its merits if the content of the complaint warrants, and even if it is not filed on the official form; and,
 - (iv) that an individual does not have to allege that s/he personally suffered unlawful discrimination to file a complaint.
- H. If the College continues to use AP 5141 as a disability complaint procedure or as an academic accommodations policy, it will revise the following, as applicable:
 - (i) in paragraph (B)(3), it will delete the word “certified” that appears after the word “or” and before the word “service.”

(ii) in paragraph (B)(4)(i), it will delete the word “directly” that appears after the word “activities” and before the word “related;”

(iii) delete paragraph (C); and,

(iv) in paragraph (D)(3), it will replace the limiting clause that states a complaint can be filed only if the student “feels [the actions complained of] have negatively affected his/her student status, privileges, or access to the educational programs or services of the college because of the student’s disability status” with language that correctly reflects a complaint may be filed for any discriminatory action.

I. Regardless of whether the College maintains one disability complaint procedure or multiple complaint procedures, in addition to ensuring that each is consistent with every other, the College will ensure that each procedure:

(i) is designed to ensure that no qualified student with a disability is, by reason of such disability, excluded from participation in or denied the benefits of the services, programs, or activities of the College, or be subjected to discrimination by it;

(ii) provides accurate definitions of various types of disability discrimination that may provide the basis for a complaint pursuant to the College’s grievance and other procedures;

(iii) provides notice to all members of the College community of the grievance procedures that apply to different types of complaints of disability discrimination filed by students against other students, employees or third parties;

(iv) contains an explanation of how to file complaints pursuant to the grievance procedures and clarification of other types of complaints that may be filed and with whom those complaints should be filed;

(v) states the title and contact information of the individual(s) with whom to file a complaint and those responsible for taking action on disability discrimination under the complaint procedures, taking appropriate interim measures during the complaint process, and handling appeals;

(vi) provides clarification of any differences in the role of the individuals with responsibility to take action on disability discrimination;

(vii) include provisions ensuring that individuals who play a role in receiving, investigating, and otherwise processing student complaints of disability-based discrimination (including, but not limited to, employees in the Disabled Students Programs and Services (DSPS), Section 504 or Title II coordinator(s), deans, and others) are readily available to students and do not have any actual or perceived conflicts of interest in the process;

(viii) informs employees of their responsibility, once they become aware of disability based discrimination, to report it to the Section 504 or Title II coordinator regardless of whether a formal complaint was filed;

(ix) contains procedures for adequate, reliable, prompt, and impartial investigation, hearing, and appeal of all complaints, including interviews of the complainant, the

- accused individual(s), identify and interview relevant witnesses and evidence identified by each party, and identify and interview any other witnesses, if needed;
- (x) provides guidance on interim measures to stop the discrimination and assist or protect the complaining party or other students during the grievance process and with the complainant's consent;
 - (xi) states reasonable timeframes for individuals to report disability-based discrimination and for the major stages of the investigation, hearing, and appeal;
 - (xii) requires written notification to the parties of the outcome of the investigation, hearing and appeal;
 - (xiii) requires written notification to the complainant of the opportunity to appeal the findings if the opportunity is provided to the respondent;
 - (xiv) provides that the College will keep the complaint and investigation confidential to the extent possible;
 - (xv) provides that the College will take steps to prevent recurrence of any discrimination, including disciplinary sanctions, and will remedy the effects of the discrimination on the victims and others, with examples of the types of remedies available to victims; and,
 - (xvi) prohibits retaliation and require that allegations of retaliation be brought to the individuals designated to receive such complaints to be investigated by the College under the same processes and standards outlined in the grievance procedures.

Reporting Requirements

By June 1, 2016, the College will provide a draft of the revised procedures and policies required by Section II of this Agreement to OCR for review and approval. Within 30 calendar days of OCR's approval, the College will provide documentation to OCR demonstrating that it has formally adopted the revised procedures and policies; updated its printed publications and on-line publications with the revised procedures and policies (inserts may be used pending reprinting of these publications); and, electronically disseminated the revised procedures and policies to students and staff. This documentation will include, at a minimum: (i) printouts or a link to all on-line publications containing the revised procedures and policies; (ii) evidence of the electronic dissemination of the revised procedures and policies to students and staff; and, (iii) if not yet finalized, copies of inserts for printed publications.

III. Written Guidance

The College will distribute written guidance to its faculty, staff, and administrators that explains the revisions to the College's discrimination procedures and policies as required by Section II above. The guidance will include instructions on appropriately informing individuals of their right to file an unlawful discrimination complaint, and the appropriate College administrator and office that receive such complaints.

IV. Notice of Nondiscrimination

The College will either create or revise a notice of nondiscrimination to state that it does not discriminate on the basis of sex (gender), race, color, national origin, age, or disability (the notice may include other bases) in any of its programs and activities, including employment and admission. Further, the notice will state that inquiries concerning the application of regulations prohibiting discrimination may be referred to the person(s) designated to coordinate the District's efforts to comply with all aspects of regulations prohibiting discrimination (with the individual's name or title, business address and phone, and business e-mail address) or to OCR. The College will ensure that the notice of nondiscrimination is provided in languages other than English as necessary and is included in the College Catalog and in similar College publications. The notice will also be posted prominently on the College's website through a link titled "Nondiscrimination" under the "About WCC" tab/button, at various locations throughout the College, and in electronic and printed publications of general distribution that provide information to students, employees, and the public about the College.

Reporting Requirement

By February 1, 2016, the College will provide the notice of nondiscrimination to OCR for review and approval. Within 30 calendar days of OCR's approval, the College will provide documentation to OCR (such as a copy of revised materials and publications containing the notice of nondiscrimination, and/or a link to the on-line version of the materials and publications) demonstrating that the approved notice has been disseminated in accordance with the section above. Inserts may be used pending reprinting of the materials and publications.

V. DSP&S Webpage

By June 1, 2016, the College will redevelop the webpage for its Disabled Students Programs and Services (DSP&S) so that it includes pertinent and important information including the name and contact information for its Section 504 and Title II coordinator(s) and its disability discrimination complaint procedure. The information will be in a conspicuous location, in typeface equal to or greater than the typeface of all other information found on the same webpage, and will either include the entirety of the information without the need to be redirected to another location or a link that redirects to another location where the entirety of the information will be posted.

Reporting Requirement

Within fifteen (15) days of adding the information to its DSP&S webpage as required by the above section, the College will provide verification to OCR that it has added the information by providing a screenshot or printout of the information as well as an uniform resource locator (URL) at which the information can be found.

VI. Academic Accommodations²

The College will take measures to ensure that its DSP&S is addressing requests for and providing accommodations in a timely and effective manner. At a minimum, this will include:

- A. Ensuring that reasonable accommodations are provided to its students with disabilities when necessary and that provision of the accommodations is not dependent on a student's waiver of any rights, entitlements, or ability to receive services (e.g., receipt of accommodations will not be conditioned on students' willingness to waive their interests in privacy as stated in the Educational Accommodations/Student Education Contract).
- B. Creation of a memorandum or similar document that reminds DSP&S staff and all other staff involved with the academic accommodations process of the requirement that the College engage in the "interactive process" with each student with a disability who is requesting a reasonable accommodation from the College. The memorandum will describe the interactive process, describe the type of information to be considered during the process and in determining a reasonable accommodation, state that the College is required to give primary consideration to the requests of a student with a disability when the request is related to the receipt of effective communication, state the College's obligation to afford the student a full ability to provide any information relevant to the determination and the College's obligation to accept and fully consider the information, state specific examples of the types of accommodations that can result from the process, state that the interactive process also applies when a student who already has approved accommodations seeks to modify or change the accommodations for whatever reason, and describe the appeal procedures available to the student in the event the student does not agree with the College's determination.

Once developed, the memorandum or similar document will be provided to the DSP&S staff and all other staff involved with students' provision of academic accommodations.

- C. Development of a written protocol that describes the process that is followed for requesting, approval, and implementation of accommodations along with corresponding time periods for each step in the process (the application; necessary medical documentation; approval or disapproval by DSP&S; once an application is approved, how a meeting will be scheduled among the student, DSP&S representative, and, if necessary, any instructor/professor to discuss the implementation of the approved accommodations and ways to maintain an "interactive process" among them). The protocol will also provide the name or title of an individual in DSP&S, along with his or her business contact information, who will serve as the point of contact for students involved with the approval process. Additionally, the protocol will provide information about what occurs in any instance where there is a failure or refusal to provide approved accommodations, or when those provided are ineffective, and information about filing a complaint of discrimination based on disability.

²The term "accommodations" is a general term that includes adjustments, modifications, and auxiliary aids.

Once developed, the written protocol will be posted in the DSP&S where all other informational documents are posted for viewing by students or the public, will be made available for picking up by students or others by leaving them in a sufficient number in a conspicuous place in the DSP&S, will be posted at the DSP&S website, and will be provided to each student as he or she begins the process of seeking approval for accommodations.

- D. The College will take the following measures to assist its ability to address and resolve any disputes over the implementation of accommodations for students with disabilities.
- (i) The College, through DSP&S, will provide information to all instructors and department heads about the process through which the College provides accommodations to students with disabilities and about the steps an instructor should take if the instructor has questions or concerns about an approved accommodation, as well as contact information for an individual to whom questions or concerns may be addressed.
 - (ii) The information to instructors and department heads will also include a statement reminding the instructor of his or her obligation to provide the approved accommodations without the necessity or requirement that the student request authorization or permission from the instructor prior to being able to use the accommodation (courtesy notice is not to be used as a pretext for requiring permission or authorization). It will further state that only the College and not an instructor can deny an accommodation only if it results in a fundamental program alteration and that the determination of whether an accommodation results in a fundamental alteration is made through an interactive process with the student.
 - (iii) The College will develop a process by which students with disabilities whose approved accommodation(s) were denied by an instructor or other employee of the College can efficiently and effectively have the dispute resolved. The process will, at a minimum: designate one or more College administrators who are knowledgeable about Section 504 and Title II in the post-secondary context and who have authority to resolve all disputes regarding the provision of accommodations for students with disabilities; state clearly established standards by which disputes are to be resolved and that are consistent with state and federal law; ensure that the student is provided with a full opportunity to testify or otherwise provide a statement and any relevant information to the decision making authority; ensure that the student is advised of and provided an opportunity to review and question or counter all information submitted to the decision maker(s); ensure that the student is provided a written determination of the dispute within 20 days that adequately explains the basis for the determination; and, ensure that the student is advised of and afforded an opportunity to utilize an appropriate appeal or review process if so desired (e.g., the discrimination complaint procedures of the College). The College will take all reasonable steps to familiarize instructors with their responsibilities to students with disabilities.

Reporting Requirement

By June 1, 2016, the College will provide its proposed protocol, interactive process memorandum, written information to instructors, and accommodations dispute policy required by the above section of this agreement to OCR for review and approval. Within thirty (30) days of OCR's approval of the items, the College will adopt the items, implement them, disseminate them consistently with the stated requirements in the section above, and provide written assurance to OCR that it has done so. The written assurance will include a copy of the finalized items and specific information evidencing compliance with the distribution and dissemination requirements (e.g., a copy of the blast e-mail message containing the items or other means of distribution).

VII. Testing Accommodations & Recorded Lectures

- A. The College will review and revise, as necessary, its “Alternate Testing Accommodation Policies” to ensure that they are clear and unambiguous about the rights and obligations of students with disabilities who have approved testing accommodations. The terms will be consistent with the requirements of Section 504 and Title II, will be uniformly applied to all students with disabilities, will ensure that no discretion is provided to individual professors/instructors to modify, amend, revise, or otherwise change the terms of a student’s approved accommodations without the consent of the student and the DSP&S, and will ensure that no extra burden is imposed on students with disabilities in order for them to receive testing accommodations (e.g., no student will be required to first obtain a test from an instructor and then deliver it to the DSP&S or other location to be completed, to pick up a completed test, or return a completed test to an instructor). The policy will also include the name and/or title of an individual in the DSP&S, along with his or her contact information, who may be contacted for further information or to respond to any questions.
- B. The College will review and revise, as necessary, its “Request for Test Proctoring Services” agreement so that it is consistent with the requirements of Section 504 and Title II including, specifically:
- (i) that it not impose limitations and restrictions on students with disabilities that are not equally imposed on students without disabilities (e.g., the test proctoring rules will not prohibit students with disabilities from bringing personal items into the test room with them unless such a prohibition is also imposed on students without disabilities);
 - (ii) that it not authorize changing the time that the exam is taken from the same time as the rest of the class takes the exam without the consent of the student receiving the testing accommodation;
 - (iii) that it not require the student with a disability to pick up the exam from the instructor and bring it to the DSP&S or require the student to return the exam to the instructor unless the same conditions are placed on students without disabilities;

(iv) that it not require the student with a disability to return the completed agreement to the instructor for the instructor's files; and,

(v) that it not require endorsement by the student with a disability.

C. The College will review and revise, as necessary, its "Recorded Lecture Policy Agreement" so that it does not place primary import on the protection of instructors' asserted rights to copyright or otherwise control their lectures and, instead, places primary import on students' entitlement to record lectures and instructors' obligation to permit recording of their lectures (e.g., the bulleted items will not emphasize instructors' potential rights over students' entitlements when a more simple expression requesting students to agree that they will not release the tape recording or otherwise hinder instructors' ability to obtain a copyright will suffice).

D. Once revised, the testing policy, proctoring services agreement, and recorded lecture policy will be posted in the DSP&S where all other informational documents are posted for viewing by students or the public, will be made available for picking up by students or others by leaving them in a sufficient number in a conspicuous place in the DSP&S, will be posted at the DSP&S website, and will be provided to each student as he or she is approved to receive testing accommodations or recording accommodations. Additionally, contemporaneously with approving testing or recording accommodations for a student, the respective policy will be provided to each instructor/professor who has within his or her class the student who has been approved for testing or recording accommodations.

Reporting Requirement

By June 1, 2016, the College will provide its revised testing policy, proctoring services agreement, and recorded lecture policy to OCR for review and approval. Within 30 calendar days of OCR's approval, the College will formally adopted the testing policy, proctoring services agreement, and recorded lecture policy, disseminate them consistently with the stated requirements in the section above, and provide written assurance to OCR that it has done so. The written assurance will include a copy of the finalized policies and agreement and specific information evidencing compliance with the distribution and dissemination requirements.

VIII. Training

By June 1, 2016, the College will provide training to all staff involved with the request for, granting or denial of, or implementation of academic accommodations for students about the items required by section II, VI, and VII of this agreement. The training will be provided by individual(s) with sufficient knowledge and experience with the noted topics and the College may request that OCR provide the training at no expense to the College. The various written items required by section II, VI, and VII of this agreement will be distributed at the training and it will provide a question and answer session.

Reporting Requirement

Within thirty (30) calendar days of the College completing the training required by this section of the Agreement, the College will provide verification of the training including information about the presenter, a copy of any sign in list, a copy of any PowerPoint or other presentation used during the training, and a copy of the items distributed at the training (these requirements will be modified accordingly if the training is provided by OCR).

IX. Monitoring and Reporting

- A. By February 19, 2016, the College will provide OCR with a copy of the sent to the Student and a copy of her claim and the payment made to her, if any. If the Student did not respond to the College's letter, then the College will so indicate in lieu of providing a copy of the claim and payment.
- B. By January 15, 2016, the College will provide documentation to OCR showing that it notified the Student of the date of the meeting in Section I.B.
- C. By February 19, 2016, the College will provide OCR a copy of all of the documentation generated at the meeting in Section I.B., including a copy of the communication to the Student regarding the outcome of the meeting. This documentation will include: the name, title, and business contact information for all individuals who participated in the meeting; all information or documentation considered by the College as part of its process to reach a determination as to how the Student will fulfill the requirements in the courses at issue, including any documentation provided by the Student, as well as documentation oh phone calls made, research done and/or meetings held by the College with administrators at neighboring colleges and/or accrediting agencies; the College's determination and an explanation of the basis for that determination after its full consideration of all available information following the meeting; and whether the conclusion is agreeable to the Student and explanation of the reasons why or why not.
- D. By June 1, 2016, in consultation with OCR, the College will take each of the actions outlined in Section II above, and provide copies of the revised materials in each subsection to OCR.
- E. By June 1, 2016, the College will provide a copy of its draft written guidance in Section III to OCR for review and comment. Within thirty days of OCR's approval, the College will provide OCR with documentation that it has distributed the guidance.

The College understands that OCR will not close the monitoring of this agreement until OCR determines that the College has fulfilled the terms of this agreement in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, 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 Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Dr. Douglas B. Houston,
Chancellor,
Yuba Community College District

12/16/2015
Date