

RESOLUTION AGREEMENT

I. INTRODUCTION

Tillamook Bay Community College (“college”) enters into this agreement to resolve the allegations asserted in a complaint denominated OCR Reference No. 10142011 (“the complaint”) filed with the Office for Civil Rights in the U.S. Department of Education (OCR), under Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 USC 794, and title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 USC 12131–12134, and those statutes’ implementing regulations at 34 CFR Part 104 and 28 CFR Part 35.

II. GENERAL PROVISIONS

- A. This agreement resolves the allegations asserted in the complaint and does not constitute an admission by the college of a violation of Section 504 or Title II, or those statutes’ implementing regulations, or any other law.
- B. OCR agrees to discontinue its investigation of the complaint based upon the college’s commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations asserted in the complaint.
- C. The college agrees to provide OCR data and other information in a timely manner. The college understands that during OCR’s monitoring of the college’s implementation of this agreement, OCR may visit the college campus, interview staff members 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 regulations implementing Section 504 at 34 CFR 104.7(b), 104.43(a), and 104.44 and with the regulations implementing Title II at 28 CFR 35.107(b), 35.130(a), and 35.130(b)(7), which were at issue in this case.
- D. OCR will not terminate its monitoring of this agreement until OCR determines that the college has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 CFR 104.7(b), 104.43(a), and 104.44 and with the regulations implementing Title II at 28 CFR 35.107(b), 35.130(a), and 35.130(b)(7).

- E. The college acknowledges that, if it does not fully implement this agreement, OCR will take appropriate measures within its authority to effect compliance and that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms of this agreement. Before initiating administrative enforcement (34 CFR 100.9 and 100.10), or judicial proceedings to enforce this agreement, OCR shall give the college written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

III. REMEDIAL ACTIONS

A. Academic Adjustments and Auxiliary Aids Policies and Procedures

- 1. For OCR’s review and approval, by June 30, 2014, the college will review and revise, as necessary, its policies and procedures for the provision of academic adjustments, auxiliary aids, and program modifications to ensure that students with disabilities are not discriminated against on the basis of disability and that such policies and procedures are in compliance with Section 504 and Title II and those statutes’ implementing regulations. Such policies and procedures must specifically ensure that:
 - a. Students receive notice from the college of the opportunity to request disability-related academic adjustments, auxiliary aids, and program modifications and receive notice of any specific college requirements for requesting adjustments, aids, and modifications, including the timeframes and guidelines by which students are expected to submit requests, the name and contact information for the college employee to whom students should submit any requests, and any requirements for appropriate documentation of students’ disabilities and need for adjustments, aids, and modifications;
 - b. An interactive process occurs between the college and students about obtaining effective academic adjustments, auxiliary aids, and program modification;
 - c. When requests for academic adjustments, auxiliary aids, and program modifications are approved by the college, students, relevant college faculty, and staff members are promptly and effectively notified in an accessible format so that the academic adjustments, auxiliary aids, and program modifications can be implemented in a timely manner; and

- d. When requests for academic adjustments, auxiliary aids, and program modifications are not approved by the college, specific reasons for such decisions are clearly articulated and documented in writing to students; and, as applicable, students are informed of any additional information the college needs to reevaluate students' requests.
2. Within 120 calendar days of receiving OCR's approval of the college's draft policies and procedures for the provision of academic adjustments, auxiliary aids, and program modifications the college reviewed and revised in accordance with section III.A.1. of this agreement, the college will adopt, widely publish in accessible formats, and implement those policies and procedures.

B. Grievance Policies and Procedures

1. For OCR's review and approval, by June 30, 2014, the college will review and revise, as necessary, its grievance policies and procedures to ensure their consistency with Section 504 and Title II and those statutes' implementing regulations and to ensure that the college has procedures for addressing grievances that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of grievances to the college alleging any action prohibited by the Section 504 or Title II regulations, including that such policies and procedures provide for:
 - a. Application of the procedures to grievances alleging discrimination, harassment based on disability, and retaliation (for activities protected by Section 504 and Title II and their implementing regulations) perpetrated by college employees, college contractors, other students, or third parties;
 - b. Adequate, reliable, and impartial investigations of grievances, including the opportunity to present witness names and other evidence;
 - c. Designated and reasonably prompt timeframes for the major stages of the grievance process;
 - d. Written notice to the parties of the outcome of the grievance;
 - e. An assurance that the college will take steps to prevent recurrence of any discrimination or harassment and to correct any discriminatory effects on the grievant and others, if appropriate; and

- f. A prohibition of retaliation against any individual who files a grievance or participates in an investigation of the grievance.
2. Within 120 calendar days of receiving OCR’s approval of the draft grievance policies and procedures the college reviewed and revised in accordance with section III.B.1. of this agreement, the college will adopt, widely publish in accessible formats, and implement those policies and procedures.

C. Training and Notice

1. Within 90 calendar days of adopting its policies and procedures pursuant to sections III.A.2. and III.B.2. of this agreement, the college will provide training about the college policies and procedures for the provision of academic adjustments, auxiliary aids, and program modifications and about the college grievance policies and procedures. The college will provide the training to the college’s designated Section 504 and Title II coordinators and to all college administrators, faculty, disability services staff members, and any other college employees and contractors who are responsible for providing information about or for approving or providing academic adjustments, auxiliary aids, and program modifications for students with disabilities.
2. Within 90 calendar days of adopting its policies and procedures pursuant to sections III.A.2. and III.B.2. of this agreement, the college will widely disseminate written notices to all college employees and contractors, students, and any other members of the college community of those policies and procedures.

D. Remedies for Subject Student

By June 30, 2014, the college will send a letter to the student who is the subject of the complaint that includes:

1. An assurance that the college is committed to complying with Section 504 and Title II and their implementing regulations by providing nondiscriminatory access to college programs and activities;
2. A statement that the college does not tolerate discrimination against students on the basis of disability;

3. A statement that the college is revising its policies and procedures required by the regulations that implement Section 504 and Title II and that the policies and procedures will be published on the college's website and elsewhere when they have been adopted;
4. An expression of regret for the director of student services having made changes to the student's approved accommodations for the summer 2013 term and for the delay in providing necessary information to the student; and
5. An offer to the student for an opportunity to meet with the college's chief academic officer to discuss whether a failure to provide her with specific academic adjustments, auxiliary aids, and program modifications, for which she had been approved during the spring 2013 term, adversely affected her education during the summer 2013 term. If the chief academic officer determines that the student's education during the summer 2013 term was more likely than not adversely affected by the failure to provide the student with specific academic adjustments, auxiliary aids, and program modifications for which she had previously been approved, the college will take immediate steps to remedy any adverse effects.

IV. REPORTING

- A. By June 30, 2014, the college will provide for OCR's comment:
 1. The draft academic adjustments, auxiliary aids, and program modifications policies and procedures reviewed and revised, as necessary, pursuant to section III.A.1. of this agreement; and
 2. The draft grievance policies and procedures reviewed and revised, as necessary, pursuant to section III.B.1. of this agreement.

As promptly as possible, OCR will provide the college with comments about the draft policies and procedures the college submitted pursuant to sections IV.A.1. and IV.A.2. of this agreement.

- B. Within 30 calendar days of adopting, publishing and implementing the policies and procedures pursuant to sections III.A.2. and III.B.2. of this agreement, the college will provide OCR with a detailed report documenting that the college has incorporated OCR's comments and adopted, widely published, and implemented those policies and procedures. The report will include the date or dates on which the policies and procedures were adopted and implemented and a description of how and where the policies and procedures were published.

- C. Within 30 calendar days of conducting the training required by section III.C.1. of this agreement, the college will provide OCR with a detailed report about the training. The report will include the qualifications of the trainer or trainers; a description of the training; the training agenda; copies of any visual aids used for the training and materials distributed; the date or dates the training was provided; the length of the training; a list of the individuals and their position titles required to be trained in accordance with section III.C.1. of this agreement; and a list of the individuals who received the training with their position titles.
- D. Within 30 calendar days of disseminating the notice required by section III.C.2. of this agreement, the college will provide OCR with a detailed report about the notices. The report will include descriptions of the methods the college employed to disseminate the notices; to whom the notices were generally disseminated; the dates of the notice dissemination; and will include a copy of the notices.
- E. By August 1, 2014, the college will provide OCR with a detailed report regarding actions taken pursuant to section III.D. of this agreement related to the student who is the subject of the complaint. The report will include descriptions or copies of any written communications between the college and the student related to the college's implementation of section III.D. and will include a copy of the letter sent by the college to the student.
- F. By December 18, 2015, the college will provide a detailed report to OCR about any formal and informal grievances filed by college students and others under the college's grievance policies and procedures adopted pursuant to section III.B.2. of this agreement. The report will describe grievances filed with the college from the date the college adopted and implemented the policies and procedures, including a summary of the nature of the alleged discrimination, type of disability involved in the allegation, and a description of any actions taken by the college in response to any such grievance.

Signed:

_____/ s / _____
Dr. Connie Green
President
Tillamook Bay Community College

_____/04/22/2014_____
Date