

RESOLUTION AGREEMENT
Western Carolina University
OCR Case No. 11-16-2114

Western Carolina University (the University) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-16-2114. This Agreement does not constitute an admission by the University of a violation Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

1. The University and the Complainant shall meet to determine the Complainant's eligibility for academic adjustments and/or auxiliary aids and services. The University shall consider all medical and other documentation provided by the Complainant, determine whether that information adequately documents the need for academic adjustments and/or auxiliary aids and services, and, if eligible, develop an individual plan for the Complainant using an interactive process that may include requests for additional documentation and consideration of alternatives to the requested adjustments, which the University will implement with fidelity.

Reporting Requirement:

By December 12, 2016, the University will provide OCR a report indicating the determination as to whether the Complainant is a qualified individual with a disability, and, if so, a copy of the Complainant's approved academic adjustments and/or auxiliary aids and services. The University will include a copy of all documentation provided by the Complainant; meeting notes and correspondence evidencing the interactive process, including the names and titles of participants; any additional information that the University considered in making a determination regarding the Complainant's eligibility and need for academic adjustments and/or auxiliary aids and services; and the rationale for the determinations.

2. The University will revise its notice of non-discrimination to designate an appropriately selected individual to coordinate the University's efforts at compliance under Section 504. The University will designate an individual whose other responsibilities will not create a conflict of interest. The notice of non-discrimination will include contact information for reaching the Section 504 coordinator.

Reporting Requirement:

By December 12, 2016, the University will provide written notice to OCR of its selection for the role of Section 504 coordination, including a description of the responsibilities of the Section 504 coordinator as well as a list of the individual's other responsibilities to ensure that the individual does not have a conflict of interest.

Upon feedback from OCR, within 30 days, the University will provide OCR with a copy of its revised notice of non-discrimination and with documentation of changes to the

University’s websites and published materials that reflect the designation of the Section 504 coordinator along with appropriate contact information.

3. The University will revise Policy 53, “Sexual Harassment, Sexual Misconduct, and Other Unlawful Discrimination,” or other applicable policy to ensure the policy and its accompanying procedures comply with the requirements of Section 504 and, because the policies and procedures apply to discrimination on the basis of sex, Title IX. The University will make the following revisions and may make additional changes to improve its procedure:
 - a. Provide an assurance that each complaint will receive an adequate, reliable, and impartial investigation, including a similar and timely opportunity for both the complainant and respondent to identify witnesses and provide evidence relevant to the complaint;
 - b. Identify the responsibilities of the person designated to investigate grievances alleging disability discrimination and harassment;
 - c. Provide that the individual designated to investigate the grievance will independently determine, as appropriate:
 - i. To request and question witnesses, and
 - ii. To seek and review documents and other relevant evidence; and
 - d. State who will determine remedies available to the complaining party and ensure that the notice of outcome provided to the complaining student includes what those remedies are, if any.

Reporting Requirement: Following receipt of the University’s revised grievance procedure, OCR will review and, if appropriate, approve the procedures. If OCR does not approve the procedures as submitted, OCR will recommend specific revisions and request resubmission from the University prior to approval.

4. Within 90 days of receiving written notification from OCR that OCR has approved the procedures submitted by the University pursuant to Paragraph 3, the University will adopt and implement those procedures. The University will provide students with written notice regarding the revisions to the grievance procedures as implemented, as well as information about how to access the procedures. The University, at minimum, will make this notification through the University’s website, electronic mail to students, and regularly issued newsletters.

Reporting Requirement: Within 15 days of completing the steps set forth in Paragraph 4, the University will provide OCR with documentation that it has done so, including a description of how the notices were distributed, copies of written notices, and links to the website pages where the procedures can be accessed.

5. By September 30, 2017, and after OCR’s approval of the University’s grievance

procedures, the University will provide training to faculty and staff about the new grievance procedures and their responsibilities to students with disabilities. The training should address, at a minimum, the University's grievance procedures, responsibilities with regard to responding to a student's request for academic adjustments and/or auxiliary aids and services whether the request is verbal or in written form, necessary documentation, the interactive process, essential academic requirements, and implementation of such services.

Reporting Requirement:

At least 30 days prior to the planned training, the University will provide for OCR's review and approval the training materials prepared, including the name(s) and title(s) of the trainer(s) and any handouts or presentations developed.

Within 10 calendar days of the completion of the approved training, the University will submit to OCR the name(s) and title(s) of the trainer(s), the date of the training, the material used or disseminated, and the sign-in sheets indicating the names and titles of participants.

6. The University will provide documentation to support its implementation of the revised grievance procedure.

Reporting Requirement:

Within 45 days of the end of each academic semester of the 2016-2017 academic year, the University will provide OCR with a description of all student disability discrimination complaints resolved using the University's grievance procedure during that academic semester. The description will include an explanation of the actions the University took to investigate the complaints, the dates major stages of the process were completed, any remedies provided, and copies of investigative reports, interview notes and witness statements, memos explaining the findings, and notices of outcome.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the University understands that during the monitoring of this Agreement, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which were at issue in this case.

The University 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 University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

By: _____/S/_____ Date: _____10/2/16_____

Dr. David Belcher, Chancellor