

RESOLUTION AGREEMENT

Between the University of Wyoming and
The United States Department of Education's Office for Civil Rights (Denver)

Case Number 08-10-2102

BACKGROUND

1. The U. S. Department of Education, Office for Civil Rights ("Department" or "OCR") received a complaint filed against the University of Wyoming. The complainant alleged that the University did not provide him with adequate academic adjustments.
2. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. pt. 104, prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance from the Department.
3. Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35, prohibit discrimination on the basis of disability by public entities.
4. The University of Wyoming remains committed to full compliance with the civil rights laws at issue in this agreement, and enters this agreement in the spirit of demonstrating its dedication to full compliance.
5. This Agreement incorporates the steps the University has voluntarily agreed to undertake in order to address the substance of the complaint allegation and to ensure its compliance with Section 504 and Title 11.
6. The Agreement is not an admission of liability on the part of the University of Wyoming but is entered into to avoid the burden and expenses of possible enforcement action.

JURISDICTION

7. The University is subject to the requirements of Section 504 and Title II because it is a public entity and receives Federal financial assistance from the Department.
8. The parties to this Agreement are OCR and the University. In light of this Agreement, the parties have determined that Case Number 08-10-2102 can be resolved without further investigation or enforcement action at this time and have prepared and agreed to the terms of this Agreement.
9. In order to resolve this complaint and to avoid the burdens and expenses of possible enforcement action, the parties enter into this Agreement. In consideration of, and consistent with, the terms of this Agreement, OCR agrees to refrain from initiating an enforcement action

regarding areas covered in the "Remedial Action" section of this Agreement, except as provided below.

REMEDIAL ACTION

10. By November 15, 2010, the University will send a letter to the complainant and assure him that the University:

a. is committed to providing students with disabilities with timely and appropriate academic adjustments for its University-sponsored programs;

b. is taking steps to ensure that its policies and procedures related to academic adjustments for extensions of time on assignments and their implementation are in compliance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 including, but not limited to, providing additional information and training to its Art Department administrators and instructors on the revised policies and procedures;

c. will allow him to re-take the Art Department courses in which he was enrolled during the spring 2010 semester at no additional tuition when such courses are offered. This offer to retake the courses will expire with the summer semester 2012.

11. The complainant's educational records and college transcripts will reflect W's for the courses taken in the Spring of 2010. Should complainant retake the courses, the transcripts will reflect the grade earned in the course for the semester when the course was taken.

12. By **December 15, 2010**, the University will review and revise its policies, procedures, and practices regarding extensions of time as an academic adjustment for course assignments under Section 504 and Title II, and provide the proposed revisions to OCR for review and approval to ensure that qualified students with disabilities receive necessary academic adjustments related to extensions of time for assignments in compliance with Section 504 and Title II. Specifically, the University will change its policies, procedures, and practices which appear to require students to negotiate accommodations/academic adjustments with course instructors. Additionally, the University will ensure that each instructor is aware of and provides academic adjustments/accommodations to all qualified students with disabilities as determined by University Disability Support Services.

13. Within 14 days of OCR's approval of its revised policies, procedures, and practices under Section 504 and Title II, the University will finalize and implement its policies and procedures consistent with the Section 504 and Title II standards identified above.

14. The University will provide training to the University's Art Department administrators and instructors regarding the policies and procedures identified in paragraph 12 above within 60 days of the receipt by the University of OCR approval of the revised policies, procedures, and practices.

15. The University will also provide written notice to all Art Department administrators and instructors regarding their obligations under the policies and procedures identified in paragraph 12, above within 60 days of the receipt by the University of OCR approval of the revised policies, procedures, and practices.

REPORTING PROVISIONS

16. By **December 15, 2010**, the University will provide OCR with:

a. Copies of the revised draft policies and procedures as described in paragraph 12, above for review and approval by OCR.

b. A report detailing the actions taken by the University to comply with the requirements of paragraphs 10, and 11, above, pertaining to the individual student and shall include copies of correspondence sent by the University.

17. Within 30 days of the completion of training referenced in paragraph 14 above, the University will provide to OCR:

a. information confirming that it has finalized, adopted, and implemented its revised policies and procedures, if any, consistent with paragraph 13, above.

b. a report confirming that it has provided the training identified in paragraph 14, above, including the dates of training, identification and qualifications of the trainers, a list of participants, and copies of training materials.

c. a copy of the written notice provided to all Art Department administrators and instructors regarding their obligations under the policies and procedures identified in paragraph 12, above. The report will also identify how and when the notice was sent, and will identify the persons who received the notice pursuant to paragraph 15, above.

d. information on whether the complainant has chosen at that time to retake the courses in which he was enrolled during the spring 2010 semester.

e. a copy of the complainant's course transcript and relevant educational documentation.

ENFORCEMENT OF THIS AGREEMENT

18. If, at any time, the University desires to modify any portion of this Agreement because of changed conditions making performance impossible or impractical or for any other reason, it will promptly notify OCR in writing, setting forth the facts and circumstances thought to justify modification of this Agreement and the substance of the proposed modification. Until OCR notifies the University in writing that it has agreed to the proposed modification, the proposed modification will not take effect. Any modifications must receive the prior written approval of OCR, which approval shall not be unreasonably withheld or delayed.

19. For purposes of the immediately preceding paragraph, it is a violation of this Agreement for the University to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement with OCR for an extension of the relevant time frame imposed by the Agreement.

20. The University 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 University understands that during the monitoring of this agreement, if necessary, 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. § 104.44(a) and 28 C.F.R. § 35.130(b)(7), which were at issue in this case.

21. If OCR believes that the University has failed to comply in a timely manner with any requirement of this Agreement without obtaining sufficient advance written permission from OCR regarding a modification of the relevant terms under the terms set forth above, OCR will so notify the University in writing and it will attempt to resolve the issue or issues in good faith. If OCR is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides notice to the University, it may take steps to initiate an enforcement action through administrative proceedings through the Department of Education or as a referral to the Department of Justice to enforce the terms of this Agreement and to take appropriate steps to enforce Section 504 and its implementing regulations.

22. Failure by OCR to enforce this entire Agreement or any provision of it with regard to any deadline or any other provision shall not be construed as a waiver of OCR's right to enforce other deadlines and provisions of this Agreement, or of the University's obligation to comply with Section 504 and Title II and their implementing regulations.

23. This Agreement constitutes the entire Agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, shall be enforceable.

24. This Agreement does not purport to remedy any other potential violations of Section 504 or Title II or their implementing regulations, or any other federal law. The Agreement does not affect the University's continuing responsibility to comply with Section 504 and Title II and their implementing regulations.

IMPLEMENTATION OF THIS AGREEMENT

25. The University 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 and Title II, at 34 C.F.R. § 104.44(a) and 28 C.F.R. § 35.130(b)(7), which were at issue in this case.

26. The person signing for the University represents that he or she is authorized to bind the University to this Agreement.

27. The effective date of this Agreement is the date of the last signature below.

For: The University of Wyoming:

For: the U.S. Department of Education, Office for Civil Rights:

By: Jason C. Wendel 11-1-2010
Name, Title Date
General Counsel

By: Mary Lou Mobley 11/2/2010
Date
Mary Lou Mobley
Director, Region VIII