

**Flagler College
Resolution Agreement
OCR Docket Number 04-13-2046**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of Flagler College (College), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Prior to the completion of OCR's investigation, the College asked to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual (CPM).

The College voluntarily, without any admission or finding of noncompliance in the allegations of the above-referenced complaint, and without any admission or finding of noncompliance with Section 504 or its implementing regulation, enters into this Agreement with OCR to resolve the above-referenced complaint.

The College voluntarily agrees to take all steps reasonably designed to ensure that students enrolled in the College are not subject to a hostile environment on the basis of actual or perceived disability, and to respond to allegations of disability harassment. To this end, the College will promptly investigate all incidents and complaints of disability harassment of students that the College knows of or reasonably should know of, and the College will take appropriate action to respond to complaints.

Accordingly, to ensure compliance with Section 504 and its implementing regulations and to resolve the issues of this investigation, the College voluntarily agrees to take the following actions:

Statement of the College's Section 504 Harassment Policy

1. **By January 6, 2014**, the College will issue a statement to all students and staff that will be posted in prominent locations at the College and published on the College's website stating that the College does not tolerate harassment on the basis of disability, including perceived disability. The statement will encourage any student who believes he or she has been subjected to disability based harassment to report the harassment to the College, and note the College's commitment to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. The statement will include the appropriate contact information for the staff responsible for addressing such complaints. The statement will encourage students and College staff to work together to prevent harassment. The College will distribute this statement in languages other than English as necessary.

REPORTING REQUIREMENT: **By January 20, 2014**, the College will provide documentation demonstrating that a statement was issued pursuant to this Item, including copies of the statement that was printed, posted, or published, and a statement of the locations of such postings.

Nondiscrimination Notice

2. **By January 6, 2014**, the College will draft a combined Notice of Nondiscrimination¹ that prohibits discrimination based on race, color, national origin, sex, disability, and age, and identifies by name/title, address, and telephone number, the employee(s) designated to oversee compliance with Title VI, Title IX, Section 504 and the Age Discrimination Act. Additionally, the Notice of Nondiscrimination must state, where appropriate, that the College does not discriminate in admission, treatment, or access to its programs or activities. The Notice of Nondiscrimination also must state that the College does not discriminate in employment in its programs or activities.

REPORTING REQUIREMENT: By January 6, 2014, the College will provide OCR with a copy of its Notice of Nondiscrimination consistent with this Item, for OCR's review, comment and approval.

Grievance Procedures

3. **By January 6, 2014**, the College will revise its grievance procedures for addressing complaints of discrimination and harassment to provide for the prompt and equitable resolution of all types of complaints of discrimination and harassment on the basis of disability, sex, and age as required by Section 504, Title IX, and the Age Discrimination Act.² The College will revise such grievance procedures by ensuring they contain the required components,³ as follows:
 - a. Notice of the grievance procedures and instructions regarding how and where to file a complaint, including a provision for an alternate official to accept complaints when the complaint is against the person who normally receives them;
 - b. Designated reasonably prompt timeframes for each stage of the investigation and appeal;
 - c. Assurance that the investigation will be conducted in an impartial manner, including an impartial decision maker, the right of the parties to present witnesses and other evidence relevant to the complaint;

¹ For guidance regarding drafting a statement of nondiscrimination, see OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>

² For general guidance in drafting effective grievance procedures, see OCR's website at <http://www2.ed.gov/about/offices/list/ocr/grievance.html>.

³ For guidance regarding components OCR requires for prompt and equitable grievance procedures, see OCR's Revised Sexual Harassment Guidance (January 19, 2011), on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>.

- d. Written notice to the parties of the outcome of the complaint, and the basis for the decision;
- e. An assurance that the College will take steps to prevent recurrence of any discrimination and to correct discriminatory effects on the complainant and others, if appropriate;
- f. An opportunity for the parties to appeal the findings.

In addition, pursuant to guidance from OCR's Dear Colleague Letter on Harassment and Bullying, (October 2010),⁴ the College will remove from its grievance procedures references to any alleged victim's "obligation" to report harassment, and any language encouraging victims to confront their alleged harassers.

To prevent confusion on the part of potential complainants, the College will ensure that for each statute, the grievance can be easily located on the College's website and in College handbooks and each procedure clearly indicates the persons who may file complaints under them and also identify the staff persons with whom to file complaints.

REPORTING REQUIREMENT: By January 6, 2014, the College will provide OCR with a copy of its revised grievance procedures therein, as specified for Item #3 above, for OCR's review, comment and approval.

Dissemination of Revised Policies and Procedures

4. **By February 14, 2014**, or within 30 days of receiving OCR's approval of the Notice of Nondiscrimination and its grievance procedures revised in accordance with this Agreement for Items #2-3 above, whichever is later, the College will implement, publish, and disseminate the Notice of Nondiscrimination and revised grievance procedures. The College will review and, as necessary, update its Student Handbook and website to ensure that these sources of student information clearly state the College's new notice, and policies, and include the name or title, position, address, and phone number of the person or persons designated to coordinate compliance efforts, as required under Items #2-3 above. The College will ensure that the Student Handbook sections on harassment (page 25), sexual harassment (page 28), all of the College's statements regarding discrimination, and the grievance procedures are exactly the same as the Notice of Nondiscrimination and the revised grievance procedures to prevent confusion on the part of potential complainants. The College can use an insert that includes a copy of the procedures and information required in Items #2-3 above, pending the reprinting of any publications.

REPORTING REQUIREMENT: By February 28, 2014, or within 15 days after completing the actions in Item #4, whichever is later, the College will provide OCR

⁴ <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

with copies of one or more relevant student publications (e.g., the Student Handbook and Academic Catalog) in which the College's revised Notice of Nondiscrimination, revised grievance procedures, and Student Handbook have been published, as well as any references to links on its website where this information appears.

Disability Discrimination/Harassment Training

5. **By April 15, 2014**, or within 60 days of receiving OCR's approval of the Notice of Nondiscrimination and grievance procedures for Items #2-3 above, whichever is later, and annually thereafter, the College will provide training to all faculty, administrators and staff, as well as the appointed Section 504 Coordinator designated per this Agreement under Item #2 above. The training shall at a minimum, provide instruction on the Section 504 requirements as it relates to disability discrimination, including harassment and a hostile environment, the obligation to take prompt action in response to such complaints, and the revised grievance procedures from Item #3 above.

REPORTING REQUIREMENT: By April 30, 2014, or within 15 days of completing the actions in Item #5, whichever is later, the College will submit to OCR a sign-in sheet from the Section 504 training outlined above with the date of the training, the name/title of the attendees, a copy of all materials distributed at the training, and the identity and qualifications of the person who conducted the training.

System for Tracking and Review of Section 504 Complaints

6. **By January 6, 2014**, the College will implement a procedure of monitoring and tracking formal and informal complaints of disability discrimination and harassment against students. The monitoring system will track the following components:
 - a. The date of the complaint.
 - b. Description of the complaint (harassment, disparate treatment, failure to provide accommodations, etc.).
 - c. Relationship of the complainant and alleged perpetrator.
 - d. Documentation of the response to the complaint, including the investigation findings and reports, steps taken to remedy or prevent harassment and the notification to the parties of the result of the process.
 - e. Date of response to the complainant.

REPORTING REQUIREMENT: By January 20, 2014, the College will provide OCR a copy of the form it will use to track responses to complaints alleging discrimination and/or harassment on the basis of disability used in the system of monitoring and tracking formal and informal complaints described in Item #6.

7. **By May 30, 2014**, the College will compile a report of all complaints of disability-based harassment received between December 15, 2013 and May 30, 2014, including a notation

of the College's investigation with findings and actions taken in accordance with Item #6 above.

REPORTING REQUIREMENT: By June 16, 2014, the College will provide OCR a copy of the compiled report.

Educational Climate

8. **By April 15, 2014**, the College will initiate annual climate surveys to assess student and staff perceptions concerning the environment at the College as it relates to disability-based harassment concerns.
 - a. The College will develop one or more surveys for all students and staff to assess the presence and effect of harassment, including disability-based harassment, at the College. The College will develop the proposed survey(s) and submit them to OCR for review;
 - b. Upon OCR's review of the proposed survey(s), the College will administer the Climate Survey to all students and staff of the College, to be performed annually thereafter, and will encourage participation;
 - c. The College will submit an analysis of the results of the survey(s) to OCR within sixty (60) days of the date the surveys are first administered. Based on the results of the climate survey(s) and any recommendations of OCR, the College will work together in good faith with OCR to agree on appropriate corrective actions by the College to address all climate issues related to disability-based harassment identified through the survey(s). The College will implement the agreed upon actions and notify OCR of its actions as detailed below.

REPORTING REQUIREMENT: By June 16, 2014, or within 30 days of completion of all items in Item #8, whichever is later, the College will provide to OCR a summary report of the substance of the responses, the response rate by students and teachers/staff for the first annual administration of the survey(s), the College's analysis of the survey results, and the actions agreed upon and implemented by the College to address any found disability-based harassment or hostile environment.

Individual Remedy

9. **By February 14, 2014**, the College will complete its prior investigation of the allegations of disability harassment against the Complainant as alleged in OCR's data request letter to the College dated XXXXXXXXXXXX, by utilizing its revised and OCR-approved grievance procedures as detailed in Item #3. If the College determines that its previous investigation does not comply with that revised grievance procedure in any respect, it will address the deficiency in its investigatory findings. And, should the College find that any

