

**Resolution Agreement
Eastern Florida State College
OCR Complaint #04-13-2625**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against Eastern Florida State College (College), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794 *et seq.*, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Prior to the completion of OCR's investigation, the College asked to resolve the allegations of the complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM). Although OCR has not made any findings regarding the College's noncompliance and the College has not admitted to noncompliance, the College voluntarily enters this Resolution Agreement (Agreement) to resolve two issues in this investigation.

Student-Focused Remedy:

1. By **January 31, 2014**, the College will send the Complainant a letter of apology expressing regret for dismissing him from the XXXXX course, and assuring the Complainant of the College's policy of prohibiting disability discrimination and retaliation.

Reporting Requirement: By **February 14, 2014**, the College will provide OCR with a copy of the letter sent to the Complainant pursuant to Item #1.

2. By **January 31, 2014**, the College will expunge all records indicating that the Student was withdrawn from XXXXX in the Fall of 2013 due to the Complainant causing a "disruption to class decorum and learning environment" and send the Complainant a letter indicating that such action has been taken by the College.

Reporting Requirement: By **February 14, 2014**, the College will provide OCR with a copy of the letter sent to the Complainant and any documentation indicating that all records have been expunged, pursuant to Item #2.

3. By **January 31, 2014**, the College will send a letter to the Professor instructing him on his obligation to provide students with disabilities with approved accommodations, including the use of audio recording devices. The College will instruct the Professor that he is prohibited from making any attempts to dissuade students with disabilities from using audio recording devices in his class, if this is an approved accommodation, by offering other accommodations or by recommending that the students enroll in another class whose professor does not object to the use of audio recording devices. The Professor will also be instructed that retaliation of any form is prohibited, and that retaliation against students who are seeking accommodations that he disagrees with will subject the Professor to disciplinary action.

Reporting Requirement: By **February 14, 2014**, the College will provide OCR with copies of the letter to the Professor confirming that it has taken appropriate personnel action pursuant to Item #3 above.

4. By **January 31, 2014**, the College will send a letter to staff in the OSD reminding them of their obligations to students with disabilities with approved accommodations. OSD will be reminded that when a professor objects to the provision of an approved accommodation, OSD must inform the professor that he or she is required to provide the accommodation and that failure to do so is a violation of Section 504 and Title II, and can result in disciplinary action against the professor. The OSD staff will also be instructed against retaliating against a student with a disability who is seeking to receive approved accommodations by: acquiescing in a professor's request to have a student removed from the class because the professor does not agree with the approved accommodation; changing a student's approved accommodation; or taking any other retaliatory action.

Reporting Requirement: By **February 14, 2014**, the College will provide OCR with copies of the letters to the OSD staff confirming that it has taken appropriate action pursuant to Item #4 above.

Grievance Procedures:

5. By **January 30, 2014**, the College will revise its Grievance Procedures to ensure that investigations provide prompt and equitable resolution of complaints pursuant to the implementing regulations of Section 504 and Title II. The revised Grievance Procedures will :
 - a. apply the procedures to complaints alleging discrimination on the basis of disability and other protected bases carried out by employees, other students, or third parties;
 - b. ensure an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
 - c. inform the complainant that in determining if discrimination has occurred, a preponderance of the evidence standard will be used;
 - d. include an assurance that the College will take steps to prevent recurrence of any discrimination and to correct any discriminatory effects on the complainant and others, if appropriate;
 - e. include a notification that the informal process is optional and not mandatory for complainants to access the formal process;

Reporting Requirement: By **February 14, 2014**, the College will submit to OCR for its review and approval, the procedures developed in accordance with item #5.

6. By **April 30, 2014**, or within 60 days after receiving written notification from OCR that the revised Grievance Procedures are consistent with the requirements of Section 504 and Title II (Notification to Proceed), whichever is later, the College will:

- a. Adopt and implement the procedure;
- b. Make appropriate revisions to the student, faculty, and staff handbooks, the College's website, and/or any other place where the College publishes its Grievance Procedures;
- c. Provide written notice of the Grievance Procedures to students, faculty, and staff by posting it on the College's website, by providing written notice in all regularly issued College newsletters and other publications, and by any other effective means the College elects.

Reporting Requirement: Within 30 days of completing actions #6 a-c above, the College will provide OCR with documentation that should include, but will not necessarily be limited to, a copy of the notification placed on the College's website along with the web address for the notification; a copy of the student, and staff handbook revisions or inserts; and a list of every location where the College publishes its Grievance Procedures.

Training:

7. By **February 14, 2014**, the College will contact OCR to schedule a mutually agreeable time for training by OCR of all of the College's administrators, all OSD staff, and professors (including the Professor) at the Melbourne Campus regarding the College's obligation under Section 504 and Title II to ensure that students with approved accommodations are provided such accommodations and the prohibition against retaliation against any student who has asserted rights under one of the laws referenced above, or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under one of the laws specified above. Thereafter the College will provide the specified staff training on the foregoing topics on an annual basis.

Reporting Requirement: Within 30 days of the date of training by OCR, the College will provide OCR with the sign-in sheets showing the name and title of all staff members who attended the OCR training described in action #7.

8. By **August 19, 2014**, and annually thereafter, the College will provide training to all of the College's administrators, all OSD staff, and College staff at the Melbourne Campus regarding the College's revised Grievance Procedures.

Reporting Requirement: By **August 29, 2014**, the College will provide documentation to OCR demonstrating that the College has conducted the training pursuant to Item #8 above. The documentation shall include: (1) the date(s) of the training sessions; (2) a list of the names and titles of the College employees who participated in the training session(s); (3) a description of the presenter's background and qualifications with respect to knowledge about Section 504, Title II, and (4) a copy of the agenda and training materials disseminated.

9. By **August 19, 2014**, and annually thereafter, the College will provide training to all College's administrators and/or staff at the Melbourne Campus, who are responsible for

investigations to ensure that all complaint investigations are adequate, reliable, and impartial, and include the opportunity to present witnesses and other evidence.

Reporting Requirement: By **August 29, 2014**, the College will provide documentation to OCR demonstrating that the College has conducted the training pursuant to Item #9 above. The documentation shall include: (1) the date(s) of the training sessions; (2) a list of the names and titles of the College employees who participated in the training session(s); (3) a description of the presenter's background and qualifications with respect to knowledge about Section 504, Title II, and (4) a copy of the agenda and training materials disseminated.

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 the Section 504 implementing regulation at 34 C.F.R. §§104.44(a), (b), (d), 104.7(b), 104.61; and the Title II implementing regulation at 28 C.F.R. §§ 35.130(b)(7) and 35.107(b).

The College 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 Section 504 implementing regulation at 34 C.F.R. §§ 104.44(a), (b), (d), 104.7(b), 104.61; and the Title II implementing regulation at 28 C.F.R. §§ 35.130(b)(7) and 35.107(b), 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 College written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the College's representative below.

_____/s/_____
President or Designee

____1-23-2014_____
Date