

Resolution Agreement
Complaint No. 09-14-2027
Azusa Pacific University

Azusa Pacific University (APU or “University”) voluntarily submits the following resolution agreement (“Agreement”) to the U.S. Department of Education, Office for Civil Rights (OCR), San Francisco Regional Office, pursuant to section 302 of OCR’s Case Processing Manual (CPM).

APU has entered into this Agreement in good faith. No findings have been made regarding the allegations in Complaint No. 09-14-2027. This resolution agreement does not constitute an admission that APU has violated, or is not in compliance with any applicable legal requirement including, without limitation, Section 504 of the Rehabilitation Act of 1973 (“Act”) (20 U.S.C. § 794), its implementing regulations (34 C.F.R. Part 104), or OCR guidance under the Act. This Agreement in no way constitutes an admission by APU that it has discriminated, failed to comply with the Act, or otherwise committed any error, omission, harassment or other wrongdoing regarding the complainant or the subject Complaint No. 09-14-2027. APU expressly denies any and all fault or liability arising under any applicable federal, state, or local law, and it expressly reserves any and all rights, defenses, causes of action pertaining in any way to the allegations set forth in the subject complaint.

The execution by APU of this Agreement does not constitute a waiver of its exemption as a religious organization or entity under section 307 of the Americans With Disabilities Act (ADA), (42 U.S.C. § 12187).

In order to resolve all of the issues identified by the U.S. Department of Education, Office for Civil Rights, San Francisco Regional Office, in the above-referenced complaint filed pursuant to Section 504 of the Rehabilitation Act of 1973, Azusa Pacific University agrees to implement this Resolution Agreement. In signing this Agreement, the University does not admit to any violation of state or federal law.¹

APU has taken or agrees to take the following actions:

I. Revision of Service Animals as a Disability Accommodation Policy

- A. The University will revise its Service Animals as a Disability Accommodation Policy (“Policy”) (see attached “Exhibit A”) to include the following definition of “service animal,” and other related concepts:

¹The University acknowledges that this Agreement does not necessarily address its legal obligations, if any, that arise under the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601 *et seq.*, and the application of its regulations to assistance animals in University housing units. Any requirements of the FHA and its regulations are within the jurisdiction of the Department of Housing and Urban Development (HUD).

Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

(1) **General.** The University will modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability. APU requests such an individual complete a Learning Enrichment Center (LEC) Accommodation Application and discuss his or her accommodation needs with an advisor in the LEC.

(2) **Removal of Service Animal.** The University may ask an individual to remove a service animal from the premises if:

(i) The animal is out of control and the animal's handler does not take effective action to control it;

(ii) The animal is not housebroken; or

(iii) The animal poses a direct threat to the health and safety of others (allergies and a fear of animals by others, generally, are not valid reasons for denying a student the right to have a service animal on University premises). A direct threat to the health and safety of others may be the basis for reasonable time, place and manner restrictions.

(3) **If an animal is properly excluded.** If the University properly excludes a service animal under this policy, it shall give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

(4) **Animal under handler's control.** A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

(5) **Care or supervision.** The University is not responsible for the care or supervision of a service animal.

(6) **Inquiries.** The University shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. The University may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. The University shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, the University may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(7) **Access to areas of the University.** An individual with a disability shall be permitted to be accompanied by his or her service animal in all areas of the University where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.

(8) **Surcharges.** The University shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the University normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(9) **Questions.** Questions about this policy may be directed to the Director of the Learning Enrichment Center, 901 E. Alostia Avenue, Azusa, CA 91702, East Campus (between North Citrus Avenue and Stadium Way Road next door to Adams Hall) at 626-815-3849 or lec@apu.edu.

(10) **Complaints/Grievance Policy.** Complaints alleging any violation of this Policy or noncompliance with its provisions will be governed by the University's Disability Grievance Policy for Students which can be found at <http://www.apu.edu/lec/disabilities/grievance/>. Copies are available at the Office of the Director of the Learning Enrichment Center and at the One Stop: Undergraduate Enrollment Services Center, East Campus (near the intersection of East Alostia Avenue and North Citrus Avenue).

- B. The execution and submission of this Resolution Agreement by APU to OCR shall constitute approval of the University's revised Service Animals as a Disability Accommodation Policy (see attached "Exhibit A") and Notice of such Policy (see Part II, B of this Resolution Agreement and attached "Exhibit B.") Within thirty (30) days of the execution of this Resolution Agreement, the University will formally approve the revised Policy.
- C. Within sixty (60) days of its formal approval of the revised Policy as required by the previous paragraph, the University will disseminate it to its student body, faculty, and staff. Dissemination may be done by either U.S. mail, e-mail, or by inclusion in general publications of mass distribution that are intended to and do reach the student body, faculty, and staff. The revised Policy will also be posted on the University's website in its course catalogs. The revised Policy will remain posted for one year.

Reporting Requirements

- D. Within fifteen (15) days of APU's approval of the revised Policy as required by the last sentence of paragraph (I)(B) of this Agreement, the University will provide to OCR a representation in writing that the Policy has been formally approved.
- E. Within fifteen (15) days of disseminating the revised Policy as required by paragraph (I)(C) of this Agreement, the University will provide to OCR verification of the dissemination. Verification will include written confirmation that APU has distributed the Policy to all students.

II. Training, Notice and Policy

- A. **Training.** By no later than 120 days after the date of execution of this Agreement, the University will provide training about the revised Service Animals as a Disability Accommodation Policy to the following:
 - (i) campus safety officers;
 - (ii) housing department staff; and,
 - (iii) Learning Enrichment Center staff.

The training will include the distribution of the revised Policy and will be given by an individual who is knowledgeable about the subject matter of the training, or by a third party expert. The University may also request that a representative from OCR provide the training at no expense to the University.

B. Notice and Policy on Service Animals as a Disability Accommodation. The University shall include within its electronic course catalog for the 2015-2016 school year, a Notice (attached “Exhibit B”) to students of the revised Service Animals as a Disability Accommodation Policy along with a copy of the Policy (attached “Exhibit A.”). The Notice will explain in general and understandable terms the legal right of an individual to use a service animal under section 504 of the Rehabilitation Act of 1973, the University’s recognition of such right, and a summary of the general obligations of the University and its students to any student lawfully using a service animal.

Reporting Requirements

C. Training Report. Within fifteen (15) days of completing the training required by paragraph (II)(A) of this Agreement, the University will provide to OCR a written report demonstrating its completion of the training requirements. The report must include the names and titles of the individuals who attended the training, the date of each training session, the agenda, copies of the training materials or presentations, and the names and qualifications of the trainers.

D. Course Catalog. Within fifteen (15) days of electronically publishing the revised course catalog, the University will provide OCR an electronic copy of the course catalog for the 2015-2016 school year.

III. Monitoring

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 Section 504 and its implementing regulations.

The University understands that by signing this Agreement, it agrees to provide data 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, which were at issue in this matter.

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.

APPROVED:

Azusa Pacific University

By: _____/s/_____ Date: 01/12/2015
Mark Dickerson

Senior Vice President and General Counsel

Exhibit A

Service Animal as a Disability Accommodation Policy

In compliance with Section 504 of the Rehabilitation Act of 1973 including its implementing regulations, Azusa Pacific University (“University”) does not discriminate on the basis of disability and is committed to providing equal educational opportunities for disabled students who qualify. The University permits the use of a service animal in accordance with its Service Animal as a Disability Accommodation Policy, as follows:

I. DEFINITION

“**Service animal**” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

II. IN GENERAL

Azusa Pacific University permits the use of a service animal by an individual with a disability. APU requests such an individual complete a Learning Enrichment Center (LEC) Accommodation Application and discuss his or her accommodation needs with an advisor in the LEC.

III. OTHER PROVISIONS

(1) Removal of Service Animal. The University may ask an individual who meets the above-referenced general requirements to remove a service animal from the premises if:

(i) The animal is out of control and the animal's handler does not take effective action to control it;

(ii) The animal is not housebroken; or

(iii) The animal poses a direct threat to the health and safety of others (allergies and a fear of animals by others, generally, are not valid reasons for denying a student the right to have a service animal on University premises). A direct threat to the health and safety of others may be the basis for reasonable time, place and manner restrictions.

(2) If an Animal is Properly Excluded. If the University properly excludes a service animal under this Policy, it shall give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.

(3) Animal Under Handler's Control. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

(4) Care or Supervision. The University is not responsible for the care or supervision of a service animal.

(5) Inquiries. The University shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. The University may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. The University shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, the University may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

(6) Access to Areas of the University. An individual with a disability shall be permitted to be accompanied by his or her service animal in all areas of the University where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.

(7) Surcharges. The University shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the University normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

(8) Questions. Questions about this policy may be directed to *the Director of the Learning Enrichment Center, 901 E. Alostia Avenue, Azusa, CA 91702, East Campus (between North Citrus Avenue and Stadium Way Road next door to Adams Hall) at 626-815-3849 or lec@apu.edu.*

(9) Complaints/Grievance Policy. Complaints alleging any violation of this Policy or noncompliance with its provisions will be governed by the University's Disability Grievance Policy for Students which can be found at <http://www.apu.edu/lec/disabilities/grievance/>. Copies are available at the Office of the Director of the Learning Enrichment Center and at the One Stop: Undergraduate Enrollment Services Center, East Campus (near the intersection of E. Alostia Avenue and North Citrus Avenue).

Exhibit B

(This Notice will appear immediately prior to the Policy)

Notice of Service Animal as a Disability Accommodation Policy

Service animals perform some of the functions and tasks that an individual with a disability cannot perform. Guide dogs are one type of service animal, used by some individuals who are blind. A guide dog is the type of service animal with which many are familiar. There are, however, service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.
- Assisting persons with mobility impairments with balance.

A service animal is not a pet.

Pursuant to section 504 of the Rehabilitation Act of 1973 and its implementing regulations, Azusa Pacific University ("University") permits the use of a service animal in accordance with its Service Animal as a Disability Accommodation Policy. Section 504 prohibits discrimination on the basis of a disability under any program or activity of the University receiving federal financial assistance.

The intent of the University is to fully comply with section 504 of the Rehabilitation Act of 1973, and under that law the University permits the use of a service animal by an individual with a disability as further set forth in the Policy.

A service animal is a dog that is individually trained to do work or perform tasks for the benefit of the individual with a disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. The work or tasks performed by the service animal must be directly related to the individual's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Questions about this Policy may be directed to the Director of the Learning Enrichment Center, 901 E. Alostia Avenue, Azusa, CA 91702, East Campus (between North Citrus Avenue and Stadium Way Road next door

to Adams Hall) at 626-815-3849 or lec@apu.edu, and any complaints alleging a violation of the Policy or noncompliance with its provisions will be governed by the University's Disability Grievance Policy for Students which can be found at <http://www.apu.edu/lec/disabilities/grievance/>. Copies are available at the Office of the Director of the Learning Enrichment Center and at the One Stop: Undergraduate Enrollment Services Center, East Campus (near the intersection of E. Alostia Avenue and North Citrus Avenue).